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Master's Thesis of Public Administration

**Impact of Provincial Council
System on Changes in
Intergovernmental Relations:**

A Study on the Decentralization of Sri Lanka

**주정부제도가 정부간 관계의
변화에 미치는 영향
: 스리랑카의 지방분권에 관한 연구**

August 2014

Graduate School of Public Administration

Seoul National University

Public Administration Major

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**Impact of Provincial Council
System on Changes in
Intergovernmental Relations**
A Study on the Decentralization of Sri Lanka

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Abstract

Impact of Provincial Councils System on Changes in Intergovernmental Relations

A Study on the Decentralization of Sri Lanka

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The objective of the study is to examine the impact of the provincial council system on changes in intergovernmental relations of Sri Lanka. The provincial council system is a decentralization process which is shared central government powers to provincial and local level. It is believed that political decentralization as an efficient tool to reduce ethnic conflict in the world today. Decentralization always changes the shape of intergovernmental relations and also the role and responsibilities of the institutions both in Central and regional governments. Hence, the provincial council system is expected to

share power with minority ethnic groups and enhance their participation in the decision making process.

The Eastern province of Sri Lanka has been selected as the research area for this study. When comparing with the other provinces of the country the Eastern province is considered as a multicultural and multi religious area. The Eastern Provincial Council (EPC) has experienced exercising provincial powers for more than six years now.

Both Qualitative and quantitative techniques are used in data collection and analysis using decentralization models to find the degree of regional autonomy (depth of decentralization) and intergovernmental relations as explained in the theoretical framework .

This study evaluates the regional autonomy of the EPC under three major criteria of political, administrative and fiscal autonomies using indicators based on the components in the Litvack and Sadddon's decentralization concepts. The EPC has earned only **57%** for political power under the considered twenty subjects and it shows the EPC has not been really devolved powers by the central government. Administrative autonomy of the EPC was **62%** and still **32%** of autonomy was remaining with the central government, even though this is comparatively a positive sign about the decentralization of Sri Lanka. Finally, the fiscal autonomy of the EPC was 14% and it has shown that the influence of the central government on fiscal autonomy of the

province. According to the indicators used to measure the autonomy, the EPC has earned 54.3 scores out of 120 and as a percentage it was **45.40 %** out of total score. For a successful decentralization process it should be reached up to 100% or close. According to the indicators which used to evaluate the regional autonomy of the EPC the score was very low compared to the expected level of the constitution. This research has been revealed the autonomy of the PCS very low and insufficient to reach expected objectives.

The degree of autonomy of the EPC has been decreased because of central government interventions. This study clearly shows the gap between theoretical autonomy and real autonomy of the EPC. The decentralization, given as a solution of an ethnic problem should be sufficient autonomy to the provincial governments with including enough political, administrative and fiscal powers. However, it is important to recognize that decentralization process never gives a permanent solution or panacea to the ethnic conflicts and regional disparities.

This study has reflected the necessity of knowledge about decentralization as a subject not only the political science but public administration and other relevant areas too. In addition to that researches and policy makers should be encouraged to learn and research on the decentralization in Sri Lanka.

Keywords: Decentralization, Intergovernmental Relations, Devolution,
Regional Autonomy

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Abbreviations

CF	Consolidated Fund
CG	Central Government
DDC	District Development Councils
EP	Eastern Province
EPC	Eastern Provincial Council
GDP	Gross Domestic Product
HDR	Human Development Report
IGR	Inter Governmental Relations
LKR	Lanka Rupees
LTTE	Liberation Tamil Tiger Elam
NGO	Non-Governmental Organizations
NPC	North Provincial Council
PC	Provincial Council
PCS	Provincial Council System
PPP	Purchasing Power Parity
SLMC	Sri Lanka Muslim Congress
TNA	Tamil National Alliance
UNP	United National Party
UNDP	United Nations Development Program
UPFA	United People's Freedom Alliance
US	United States

Chapter 01

Introduction

1.1. Background

Decentralization is explained and interpreted in several ways. One of the most common definitions is that it is a process through which authority and responsibility for public functions is transferred from the central government to regional or local governments (B. C. Smith, 1985). Decentralization brings government closer to the people. Politically, decentralization is said to strengthen accountability, political skills and national integration. It provides better services to client groups and a training ground for citizen participation and political leadership both at local and national levels.

Sri Lanka is an island nation of 65,000 square kilometers on the southern tip of India. In 1948 Sri Lanka, then Ceylon¹, obtained independence from Britain and ended 543 years of colonial rule. Sri Lanka has a population of about 20 Million people, 74% of whom are the majority Sinhalese², 12.6% are Sri Lankan Tamils³, 7.1% Muslims, 5.5% Indian Tamils⁴ and 0.8% other races like Malay, Burgher etc.

Sri Lanka's per capita GDP is US\$ 2883, but economic activity is heavily concentrated in the Western Province which accounts for 48.4% of GDP. The

¹ Sri Lanka was called as Ceylon until 1972

² Descendants of North Indians

³ Descendants of South Indians

⁴ People who were brought to Sri Lanka by the British to work on the tea plantations in the hill country

country has faced in a civil war between 1983 and May 2009, between the Government of Sri Lanka and the Liberation Tamil Tigers of Eelam⁵ (LTTE). In 2009 the government military defeated the LTTE and ended up 30 years civil war. Thereafter the government has been trying to establish civil administration in the northern and eastern provinces. The provincial council system (PCS) and the civil war have a close combination. Tamil and Muslim leaders had requested decentralization reforms and equal opportunities since the independence. Later they requested a federal system but Sinhala leaders did not accept their proposals because of the objections of the majority of Sinhala society. Later Tamil rebel groups rejected peaceful negotiations and they choose military actions for an own State. Thereafter Tamil rebels fought with the Sri Lankan government military for a separate country and died thousands of people including a large number of unarmed civilians.

As a close country and as well as a powerful Nation in South Asia, Indian government got involved the problem directly from 1987 and order both parties to stop violations and start a discussion for a permanent solution.

With the Indian interference they advised to the Sri Lanka government and Tamil rebel groups to accept the decentralize proposal which was included provincial council system. The PCS was introduced by India and this kind of

⁵ A Tamil militant force that was fighting for an independent Tamil state in the Northern and Eastern Provinces of Sri Lanka

decentralization reforms was not requested any political party or a group in Sri Lanka.

As a result of a bloody war, the north and eastern provincial councils did not operate until 2007. After defeating rebel groups in the Eastern part in 2007, the Eastern provincial council (EPC) was established. But the Northern provincial council election was held only on 21 September 2013 after the Tamil Ealam war.

As a unitary country, in Sri Lanka the Provincial councils created a new layer (tier) of the state. The central government devolved 37 subjects directly to the provincial governments. Under this system a provincial legislature, provincial executive and provincial judicial system have been established. This system is functioning according to democratic principles which are to be held provincial council elections for five years' time. This research evaluates the regional autonomy of the PCS in order to examine the success of the system as a decentralization process.

1.2. Problem Statement

Devolving some central governmental powers including powers of political, administrative and fiscal to provincial governments is a new experience to Sri Lanka.

In November 1987, under the 13 amendment⁶ of the constitution Sri Lanka, established the provincial councils considering the provincial map of the country. This system allows regional autonomy in the country's nine provinces. It is hoped that this system will resolve complaints made by the nation's largest ethnic minority, the Sri Lanka Tamils.

The new system is not equal to a federal system such as operating in the United States or India. Because under this system keeps extensive power in the hands of the president and the national legislature.

Majority of Sri Lankan believes decentralization could be made a long-lasting solution for northern eastern conflict. And also it may be a tool for enhancing development of the country economic, social and other aspects. Before introducing the provincial council system there were two governments' layers as central and local governments⁷.

Now there are three layers in the governments as

1. Central
2. Provincial (regional)
3. Local governments

⁶ PCS established under the 13th amendment of the Constitution of Sri Lanka

⁷ Municipal councils, Urban councils and pradeshiya Sabha (village councils)

This system creates a new political culture because the PCS established a secondary political layer in the country with devolving some political, administrative and fiscal powers.

Under this system hoped that minority ethnic groups would join successfully to democratic political process and take leadership to solve their people's problem. And also was proposed to enhance economic and social development of their province.

1.3. Research Question

The general objective of the study is to examine the impact of the provincial council system on changes in intergovernmental relations of Sri Lanka. The basic feature of the new system is decentralized in political, administrative and fiscal responsibilities up to the provincial level.

The demand for effective regional autonomy has been on the heart of the struggle by the Tamil minority in Sri Lanka to acquire political structure more suited to its needs. With the public stance and activities of the most militant of the Tamil youth groups , the LTTE who favours a separate , has captured the most international attention, the debate in Sri Lanka has recently been focused on a narrower question.

Does the PCS put it in place as a consequence of the Indo-Sri Lanka accord of July 1987 offer a viable solution to the “ethnic problem” in the North and East of the country?

Based on that this research aims to find solutions for the following three questions

- a) What are the most important changes happening in the intergovernmental relations under the provincial council system?
- b) What is the extent of provincial powers with respect of devolved subjects to the provincial councils by the central government
- c) What are the major impacts that occur after decentralizing political powers to provincial councils in order to reach regional autonomy?

This research focuses to find answers to those questions in order to examine the real regional autonomy of the PCS.

1.4. Research Objectives

The main objective of the study is to examine the impacts of the provincial council system with respect to regional autonomy and some indicators are used to evaluate the PCS in order to meet the objective.

This research also attempts to draw attention to the fact that types of power conflicts between the central government and provincial councils. And the

final objective of this research is to introduce a model to evaluate regional autonomy of the PCS in Sri Lanka.

The Provincial Council system has been established to provide a self-rule for provincial people and empower minority ethnic groups in order to fulfill their basic requirements. The success of the objectives depends on political, administrative competence and fiscal autonomy of the PCS. The 13th amendment has been suggested regional autonomy for the nine provinces of Sri Lanka through provincial council's.

But in the practice the central government did not devolve all the powers which mentioned in the 13th amendment to the provinces. As a result of many arguments and criticisms about the provincial council system at the provincial, national and international level, I try to evaluate the regional autonomy of the of the provincial council system in respect of political, administrative and fiscal autonomies. As it is not reported about the researches carried out on the regional autonomy of the provincial council system in Sri Lanka this may be the first attempt on that.

Another important trend in recent few years after the war is the international pressure to implement the 13th amendment by the international community. As a result of peaceful environment of the country government could hold provincial elections for northern and eastern provinces. The most significant outcome is both northern and eastern provincial elections won by minority

ethnic political parties. It was a strange experience for all people in the country because this is the first time central government and provincial governments are ruling the different ethnic groups. This may be a beginning of intergovernmental power conflict in the country. This research attempts to draw attention to the fact that types of power conflicts between the central government and provincial councils.

The Provincial council system has been introduced by the central government to achieve key macro goals such as a solution to the ethnic conflict, enhance regional development and political participation etc. All these objectives depend on the regional autonomy of the system. Without sufficient regional autonomy cannot achieve any goals as expected.

1.5. Significance of the Study

The intergovernmental relationship between the provincial councils and the central government has been given a big significance in the subject of the decentralization process. The Purpose of this study is to identify the relationship between central government and provincial councils and evaluate real regional autonomy of the provincial councils.

Many changes are being happened in the decentralization process and heard many conflicts between provincial councils and national government since at the beginning of the PCS. This study begins with a definition of

decentralization and its key characteristics along with an explanation of the fundamental changes in the system.

It is followed by a discussion of the concepts of decentralization components and regional autonomy as defined by Litavac and Seddon's. This Study explains the relationship and interdependence between the provincial governments and the central government by analyzing their legislative, administrative, and fiscal decentralization. So the study proposes to identify of intergovernmental conflicts between the provincial councils and national government, and assesses the levels of autonomy of the provincial governments.

Intergovernmental relation is an area of political science concerned with the analysis of the relationship between the different levels of government. Since the year 1988 the Provincial Councils have been functioning in Sri Lanka for a period of twenty five years and during this period the Provincial Councils became an instrument for people to exercise their sovereignty through universal franchise.

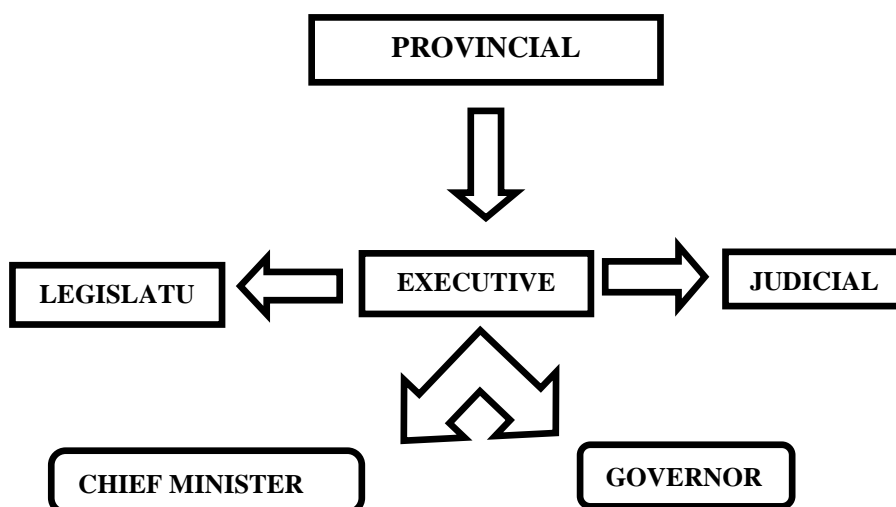
The eastern provincial council was established in 2008 and this province is considered minority ethnics dominated area. The Provincial Councils in the Eastern and Northern provinces have been established just after the Tamil Ealam war. Through these provincial councils the central government attempts to devolve power to the minority ethnic groups.

The 13th amendment of the constitution facilitated devolving the legislative, executive and judicial powers of the government to the Provincial Councils. Accordingly it has been proposed to establish a Council formed by those representatives elected by the voters, who will have the power to pass statutes. It was also proposed to establish a Board of Ministers led by a Chief Minister, supported by the majority of the Council, endowed with powers to take executive decisions on the basis of the statutes and the budgets approved by the Provincial Council. This is the most important part of the provincial council system because through this legislative and executive branch provide political power to provincial peoples for a number of subjects. The basic structure of a provincial government is in figure 1.1.

The Provincial Council is organized into nine institutions:

- i) The Governor (Agent of the Central government)
- ii) The Council (Legislature)
- iii) The Chief Minister (Head of Elected executive)
- iv) Four Provincial Ministries (04)
- v) The Provincial Public Service Commission
- vi) The Chief Secretary

Figure 1.1. Basic Structure of a provincial council in Sr Lanka



Under the provincial council system central government has devolved some powers to the provinces in order to make laws. The foundation of the existing devolution is based on three lists of powers⁸, namely,

1. Provincial List⁹ (List 1) explains powers for the provincial councils
2. Reserved List¹⁰ (List 11) explains powers shared for the central government
3. Concurrent List¹¹ (List 111) explains for powers can exercise both central and provincial

⁸ Act No.42 of 1987

⁹ The ninth schedule to the 13th amendment in the constitution

¹⁰ The ninth schedule to the 13th amendment in the constitution

¹¹ The ninth schedule to the 13th amendment in the constitution

Accordingly provision has been made to entrust the Provincial Councils 37 subjects including law and order, lands, agriculture and agrarian services, local government, cooperatives etc. The Provincial Council System is an example of decentralization. The PCS has been formulated strictly following the power arrangement within a unitary system of government.

However this PCS has created new power conflict between the central government and provincial councils and this study is going to examine this new conflict and its impact to the country. The most important part of this study is identifying the degree of regional autonomy of the PCS and evaluate the effectiveness of this system. Finally some recommendation is given based on the findings of the study to enhance the regional autonomy.

1.6. Structure of the study

The thesis is composed of six chapters as follows:

Chapter One: Introduction: this chapter explains the background of the study, research problem, and significance of the study, research questions, research objectives, and chapter plan.

Chapter Two: Conceptual Framework of the Study: The second chapter discusses the conceptual outline of the study with reviewing the literature on this study area. Major concepts such as the concept of Intergovernmental

relations, decentralization, Devolution, regional autonomy is discussed further more.

Chapter three: Provincial council system (PCS) and the Eastern Provincial Council (EPC): Main objective of this chapter is to reveal the legal basis and Autonomy of the provincial councils. Further, it describes the power and function provided to the EPC by the constitution under the existing legal framework.

Chapter four: Research Data and methodology: This chapter presents the research area, data , data collection methods , data analysis and research hypothesis.

Chapter five: Findings and Analysis of the study: This chapter reveals the real autonomy of the provincial councils at the practical situation. And also measures the regional autonomy under the political, administrative and fiscal autonomies. The EPC has a power struggle with the central government and provincial governor for autonomy. This chapter investigates this power struggle and its impacts deeply.

Chapter six: Conclusion and Suggestions: This chapter briefly presents the major finding of the study. Also, it gives some thoughtful suggestions towards empowerment of the sub-national government including provincial Councils.

Decentralization and political devolution have become important issues in Sri Lanka, particularly in the context of the recently ended ethnic conflict. The Provincial Council System, which introduced from the thirteenth amendment to the constitution, has several inherent weaknesses and deficiencies. This study analyses the intergovernmental issues pertaining to the regional autonomy. As a multi ethnic and religious country Sri Lanka is aiming to achieve permanent peace and better living conditions for all people of the country. If Sri Lanka wants to achieve this goal it should be assured peace and harmony for all people. This study is going to give a conclusion the story of decentralization in Sri Lanka and impacts on it. Achieving a successful result from devolution process the intergovernmental relations must be considered as a key factor. This study focuses on investigating ongoing decentralization changes and its sufficiency as a solution of ethnic conflict .The existing provincial council system is evaluated using the war affected Eastern provincial council and will give some recommendations to enhance the autonomy of the PCS.

The main purpose of this study is to examine the impacts of the provincial council system which was introduced as a solution of ethnic conflict Sri Lanka. The provincial council system is a decentralization process which is shared central government powers to provincial and local level. Since the introducing this system there are many criticisms and arguments to support and against

this system. However this system is expected to share power with minority ethnic groups and enhance their participation in the decision making process.

Chapter 02 Conceptual Framework of the Study

This chapter presents the conceptual dimension of the study. Accordingly the concepts such as decentralization, Intergovernmental relations, Devolution, regional autonomy are described respectively.

2.1. Decentralization

Decentralization now has almost universal appeal and is accommodated within very different views of the state (Smith 1985, p.18). The concept of decentralization is closely linked with democracy, development, public administration and good governance (Khan 2009, p.1). In the second-half of the twentieth century, practically every country has experimented with some form of decentralization or local government reform with varying aims and outcomes (Cheema & Rondinelli, 1983, Campbell 1991 cited in Andrew 1995, p.242). Within the current development debate, literature on decentralization and the suggested policy models are based on the liberal normative assumptions of decentralization, and the focus is on decentralization as a tool for development (Mustafa & Kirsten 1994, p.12-13).

According to Rondenelli, decentralization is the “transfer of authority to plan, make decisions and manage public functions from the national level to any individual organization or agency at the sub-national level “(Rondenelli 1981, p. 137 cited in Tofail 1993, p.22).

Further he defined decentralization as “the transfer of responsibility for planning, management, raising and allocation of resources from central government, semi-autonomous public authorities or corporations, area wide regional or functional authorities, or non-government private or voluntary organizations” (Rondenelli& Nellies 1986).

Leonard D. White observed “The process of decentralization denotes the transference of authority, legislative, judicial or administrative from a higher level of government to a lower” (Encyclopedia of the Social Sciences, Vol. V-VI 1959, p. 43). Decentralization implies the establishment of relatively autonomous field and regional offices and delegation of decision-making powers and functions to them (Polinaidu 2004, p. 199). Conyers observes decentralization as “the transfer of authority from a higher level of government to lower levels” (Conyers 1986, p. 22).

A decentralized organization is one, in which the lower levels are allowed the discretion to decide most of the matters, which come up, reserving comparatively a little bigger and more important problems only for those higher up. The essence of decentralization lies in the distribution of the power of decision (Ali et al 1983, p. 20-21). Decentralization relates to the role of, and the relationship between, central and sub-national institutions, whether they are public, private or civic (UNDP 1997).

Decentralization is not now seen as an end result in itself. A consensus view on the definition of decentralization is summarized in the following text. “Decentralization must be seen as a process not a condition (so it is) futile in policy terms, to compare states by the extent of decentralization, or to rank them on a (single) continuum. What is at issue is a question of dimensionality. Hence we emphasize the verbs-to decentralize, or to make decentralizing moves, to introduce decentralizing moves, or to introduce decentralizing policies, and not an adjective such as decentralized state or even a decentralized delivery system.” (Cohen 1999, p.24).

The decentralization, or decentralizing governance, refers to the restructuring or reorganization of authority so that there is a system of co-responsibility between institutions of governance at the central, regional and local levels according to the principle of subsidiarity, thus increasing the overall quality and effectiveness of the system of governance, while increasing the authority and capacities of sub-national levels (UNDP 1997).

Forms of Decentralization

Various forms/ types of decentralization are identified by scholars. Among them Rondinelli (1981), distinguishes between four different categories of decentralization. They are:

- I. **Deconcentration:** It is defined as a transfer of power to local administrative offices of the central government

II. Delegation: It is the transfer of power to sub-national governments and/or local governments, or other government entities

III. Devolution: It is the transfer of power to sub-national political entities

IV. Privatization: It is the transfer of power to the private sector

The research paper by Gregersen, Contreras Hermosilla, White and Phillips adopts the following definitions:

Political decentralization: Groups at different levels of government—central, metro and local are empowered to make decisions related to what affects them.

Administrative decentralization: Different levels of government administer resources and materials that have been delegated to them, generally through a constitution. In terms of decentralization as a process of change, and according to the level of transfer of responsibilities, it is useful to distinguish between deconcentration, delegation and devolution.

Fiscal decentralization: powers to tax and generate revenues are dispersed to other levels of government, e.g.; local governments are given the power to raise and retain financial resources to fulfill their responsibilities.

Market decentralization: Government privatizes or deregulates private functions”. Decentralization also can be identified as Political, administrative and fiscal decentralization (European Commission, 2007).Political

decentralization presupposes the transfer of functions or authority from central levels of government to sub-national institutions based on local political representation. This means that the local institution to which tasks are devolved must be governed by locally elected representatives. This type of decentralization is sometimes referred to as devolution (Conyers 1983).

Administrative decentralization means the delegation of tasks or transfer of authority from the central government to local “branches” of central government (i.e. the local institutions to which tasks are delegated are not based on any local political representation controlled from below). This type of decentralization is often referred to as deconcentration (Conyers 1999).

Financial decentralization is related not only to allocations of fiscal power and authority to generate public revenues and to use public funds but to distribution of public finance between the central government and local governments.

Furthermore, according to A.K. Sharma (1973) decentralization has five aspects, two of which are administrative, one political, one geographical, and one functional. They are:

1. Delegation of authority in such a way that large areas of discretion are entrusted to subordinate officers and comparatively few questions referred to the chief at the apex (administrative)

2. Broad grant of powers to individual component parts of the organization and retention of only certain essential powers of control in the head office (administrative)
3. Much power in the hands of elected bodies and considerable popular participation in administration (political)
4. Freedom to the field agencies or units away from headquarters and near to the people (organization)
5. Functional autonomy to various departments in respect of some of their functions (functional).

Depth of the decentralization

According to B. C. Smith there are various grades of decentralized systems in the world. Again, it has several aspects: What kinds of power will be decentralized? In all decentralized systems at least some administrative authority is allocated to the constituent units. In deeper forms of decentralization, some legislative (and thus political) power and also, perhaps some judicial power, may be allocated to the units as well, giving them greater capacity to make and implement policy.

There are many criteria of decentralization. According to Latvack and Seddon there are three major components used for the evaluate of the depth of decentralization as follows

Table 2.1. Depth of decentralization Litvack and Seddon Model

Political	Administrative	Fiscal
Delegation of political power	Redistribution of Authority	Self-financing or cost recovery
Greater local participation in politics	Shift of responsibility	Co-financing or co-production
Democratization	Strengthening of local administrative capability	Expansion of local revenue
Strengthening of local legislature	Delegation to lower-level units	Intergovernmental transfer for block grants
Development of pluralistic political parties	Establishment of new public enterprises	Authorization of municipal borrowing
Effective public control	Increase in discretionary power	Autonomous expenditure

Source: Litvack and Seddon(1999)

The system will be less decentralized if the constituent units are also accountable to the central level of government. Even where, as a general rule, the constituent units are accountable only to their own people, in less decentralized systems central institutions have the power to intervene in emergencies or other extreme circumstances (Chery Saunders).

There are a number of benefits or positive outcomes of the decentralization process specially politically decentralization is said to strengthen accountability, political skills and national integration. It brings government

closer to the people. It provides better service to client groups. it promotes liberty, equality and welfare (Maas, 1959; D.M. Hill, 1974). It provides a training ground for citizen participation and political leadership, both local and national. It has even been elevated to the role of guardian of basic human values (Van Putten, 1971).

Decentralization and ethnic conflicts

A 'conflict' generally defined as "the pursuit of incompatible goals by different groups" (Rams Botham et al. 2005: 27). It is important to distinguish conflict from the competition. Competing parties are striving independently to obtain something that is in short supply, whereas the parties in a conflict believe they have incompatible goals and aim "to neutralize, injure, or gain advantage over the other party or parties" (Uyangoda 2003). The definition of an 'armed conflict' is more specific, "denoting conflicts where parties on both sides resort to the use of force" (Ramsbotham et al. 2005: 28). The Uppsala Conflict Database (2007) defines 'armed conflict' similarly, but more narrow: "An armed conflict is a contested incompatibility that concerns government and/or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least twenty-five battle-related deaths in one calendar year". However, I choose not to include the number of battle-related deaths during a certain period of time, as this does not account for other human suffering and loss.

This study addresses ethnic conflicts and how they can be resolved through decentralization of political, administrative and fiscal powers. There is a vast literature on ethnic conflicts, especially from the late 1980s onwards. The first wave of literature focused mainly on the causes of conflict, but increasingly ways of resolving such conflicts became of concern to academics and practitioners alike. The causes of internal conflicts are complex and conflicts could be classified in a number of ways; resource based conflicts, conflicts over governance and authority, ideological conflicts, and identity (including ethnic) conflicts (Rupasinghe 1998). In terms of resolving conflicts, several concepts reflecting differences in approach are in use. Conflict resolution often refers to the ‘elimination of the causes of the underlying conflict, generally with the agreement of the parties’, while conflict management ‘refers to the, neutralization, or control of the means of pursuing either the conflict or the crisis (Zartman 1989). As noted above, the focus of this report is on how decentralization has been applied to manage or resolve ethnic conflicts through decentralization.

Conflicts weaken local governance institutions and civil society institutions as resources are being diverted to the war efforts and as areas of heavy fighting go through either dissolution of institutions altogether or the maintenance of only skeleton administrative structures. Moreover, it has been argued that humanitarian aid may further undermine local institutions and actors, in

particular in situations characterized by considerable transfers of aid from abroad (Harrell-Bond 1986).

As James Fearon and David Laitin argue, “a good theory of ethnic conflict should be able to explain why, despite the greater tensions, peaceful and cooperative [ethnic] relations are by far more typical outcome than is large scale violence.” According to them, because of the benefits of peace and the costs of inter-ethnic violence, Decentralized institutional arrangements are Likely to arise to moderate problems of inter-ethnic opportunism. “Although peaceful resolution of inter-ethnic tensions should always prevail as a rational, more beneficial approach, violent ethnic conflicts continue to occur across the world.

Decentralization and democracy

Decentralization reforms directly affect to the democracy of the country whether it is federal or a unitary. Political democracy is, therefore, protected from challenges to the vast inequalities in power and wealth embedded in free markets, while it simultaneously protects the rights of property (Robison and Hadiz, 2004).The impact of decentralization on the political and administrative arena has been argued as ambiguous because of the notion of decentralization is so unclear and broad (Oxhorn, 2004; European Commission, 2007).

From a theoretical perspective, the relationship between decentralization and local democracy has been contradictory and controversial. It is traditional wisdom that decentralization has a significant impact on local democracy. The liberal theorists including De Tocqueville and Robert Dahl, etc., Look upon local autonomy as a learning site for democracy. It seems to them that local autonomy can be enhanced by decentralization reform. Towards this end, the majority rule can be authorized to apply at the expense of minorities. In the vein, citizen participation which can be accepted as an essential element for local democracy to the liberal theorists is regarded as redundant. A high level of centralization is supported by the communitarian theorists (Oxhorn, 2004)

The relationship between decentralization and democracy is, in any case, problematic at best. Nowhere is the ambiguous relationship more clearly illustrated than in the case of Sri Lanka following the fall of the Military regime of LTTE. Here, decentralization has had little bearing in terms of pushing forward a governance agenda based on transparency and accountability, but has been instrumental in the development of newly decentralized, predatory networks of patronage.

The Sri Lanka case shows that what ultimately matters is not decentralization itself, but the system of power relations within which it is undertaken. As described in USAID's Strategies for Sustainable Development, "Democratization is an essential part of sustainable development because it

facilitates the protection of human rights, informed participation, and public sector accountability. USAID's success in the other core areas of sustainable development is inextricably related to democratization and good governance”.

Decentralization and local governance

While decentralization was used as a way to maintain political power in developing countries it functioned as a mechanism for protecting local authoritarian leaders (Oxhorn, 2004). There are various trends, such as more decentralized decision-making authority, local self-governance, new forms of strategic partnerships among elected authorities and private or civil sector organizations that challenge the old way of local governance (Sisk 2001: 21). At the local level, democracy demonstrates in daily practice its degree of ‘people’s power, allowing people to play a role in local level decision-making (Putnam 1993). Decentralization makes a positive impact for local governance “Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population”. (European Charter of Local Self Government, Part I, Art. 3)

Decentralization and Intergovernmental relations

The Provincial council system is a key decentralization effort in Sri Lanka which was introduced as a solution of country’s ethnic unrest suffered more than last three decades. However the decentralization reforms are directly

influenced to the intergovernmental relations of any country. Decentralization is essentially a question of central-regional relations. it may be affected by other factors which support or undermine the autonomy of a particular subnational territory or community (Smith, 1985). It is the consequence of political and administrative decisions. It is by the manipulation of central local relations that a system of government is made more or less decentralized (Smith, 1985).

2.2. Devolution

This study has dealt with the Provincial Council (PC) system of Sri Lanka. The PC system is considered as a devolution arrangement. Therefore, it is worth full to make understanding about “devolution” as a form or type of decentralization. “Devolution” occurs when authority is transferred from the central government to autonomous local-level government units holding corporate status granted under state legislation.

Devolution is referred the transfer of authority to legally constituted provincial, district and local bodies. It is the most common understanding of genuine decentralization. Through devolution, the central government relinquishes certain functions or creates new units of government that are outside its direct control (UNDP 1997, p.5).

The devolution of Power to sub-national units of government are seen by many as the ideal form of decentralization as it combines the promise of local democracy with technical efficiency.

The transfer of authorities to autonomous lower-level units, such as provincial, district, local authorities often referred to as devolution and is the most common understanding of genuine decentralization (UNDP 1997). Devolution creates or strengthens sub-national units of governments outside the direct control of central government by legal means (Rondenelli & Nellis 1986). Conyers (1987) defined devolution as the transfer of significant power, including law making and revenue raising, by law to the locally elected bodies. Maddick defines devolution as “the legal conferring of powers to discharge specified or residual function upon formally constituted local authority” (Maddick, 1963).

Devolution in its purest form has certain fundamental characteristics (UNDP 1997). They are: Local units of government are autonomous, independent and clearly perceived as separate levels of government over which central authorities exercise little or no direct control. The local governments have clear and legally recognized geographical boundaries within which they exercise authority and perform public functions. Local governments have corporate status and the power to secure resources to perform their functions. Devolution implies the need to "develop local governments as institutions" in the sense that they are perceived by local citizens as organizations providing

services that satisfy their needs and as governmental units over which they have some influence. Devolution is an arrangement in which there are reciprocal, mutually beneficial, and coordinate relationships between central and local governments; that is, the local government has the ability to interact reciprocally with other units in the system of government of which it is a part.

Cheema and Rondenelli (1983) identified fundamental characteristics in explaining the purest form of devolution. First, powers are transferred to autonomous units governed independently and separately without the direct control over a recognized geographical area. Second, the units enjoy corporate status and power to secure its own resources to perform its functions. Three, devolution implies the need to develop local government institution. Fourth, it is an arrangement of reciprocal, mutually beneficial and coordinate the relationship between central and local government.

2.3. Intergovernmental relations (IGR)

In the current context there are number of literature on intergovernmental relations and many writers have given different types of definition on it. William Anderson defined IGR as “an important body of activities or interactions occurring between governments unites of all types and levels within the federal system”. According to D.S.Wright “In a country where there are two or more levels of governments, there must be an interaction between national and local governments as well as among local governments”.

Intergovernmental relations therefore consist of relations between various levels of governments of a country. It also means interrelations or interactions between these various governmental units. Intergovernmental relation is a dynamic aspect of the behaviors, or the actions of various levels of governments of the same country. Intergovernmental relations (IGR) show which units do what and to whom. It shows the flow and the direction of information and resources. (D. S. Wright)

Scholars explain three types of IGR models. According to D. S. Wright in a federal system, like in USA, Germany or Nigeria, one can find one of following three kinds of relationships:

1. Coordinate – authority model

In this model, the national and state governments are independents, autonomous and separated. They are separated by a boundary and are tangential. Each government has its own authority, its own territory and its own limitations. No interferences between both levels of governments are allowed. In coordinate – authority model, the local government is part of the state and does not have any autonomy or any significant role to play by itself (D. S. Wright).

2. Inclusive – authority model

D. S. Wright says that this model is the opposite of the coordinate model. The inclusive model is a centralized and hierarchized system where, the

state and the local governments lack significant role. The national or federal government has the power to lead, dictate and do everything for state and local governments. Furthermore D. S. Wright explains in this model, the local government depends on the state government and the state government depends on the national government. The national or federal government has the power on the state and on the local governments. The state and local levels are kinds of extension of the central government. The national government decides on what state and local governments can do or can have. (D. S. Wright)

3. Overlapping – authority model

This system of governmental relationship is complicated. In this system, there is interaction, interconnection and overlapping between the three levels of governments. There is no exact limitation of the sphere or the span of influence. The central government influences the state and local governments and vice versa. (D. S. Wright).

These three models of relationships between central, state and local governments can be found in a country at different stages of political development. Leaders have to adopt the system fitting better to their context and their populations. In this study not only study of Sri Lanka IGR changes in recent time but also attempted to identify which model is closer in existing context.

2.4. Regional Autonomy

This research mainly focuses on the regional autonomy on the PSC and success and failure depend on it. According to Litvack and Seddon(1999) region's autonomy divided into three parts as Political autonomy, Administrative autonomy, Fiscal autonomy. Political Autonomy refers to a system in which a sub-state entity has control over its own cultural, economic, and even domestic political affairs in recognition of some ethnic, national or historical distinctions (Bonefeld, W. (Ed.) (2004)) According to Norman Up Hoff, It involves efficiency, efficacy and innovativeness related to the conversion of inputs into outputs by the organizations administrative Autonomy defined as the management capacity of the administrative organization.

According to literature minimum requirements for an autonomous status are generally considered to be a locally-elected legislative body with some independent authority over local concerns, whose exercise of power is generally not subject to veto by the central government; a locally-elected chief executive; an independent judicial authority with full responsibility for interpreting local laws.

There are many literatures on the concepts of decentralization, devolution, intergovernmental relations and regional autonomy. The decentralization process, characteristic of the democratic country, allows the achievement in

optimum conditions of the regional autonomy, local democracy, people's participation, good governance. It is believed that political decentralization as an efficient tool to reduce ethnic conflict in the world today. Yet decentralization is more successful in reducing conflict and enhancing democratic values in some countries just like Sri Lanka. Decentralization always changes the shape of intergovernmental relations and also the role and responsibilities of the institutions both in Central and regional governments. This research, explores how this change occurring in war affected areas of Sri Lanka. And also examine their impacts. Impacts mainly focus on the major components of political autonomy, administrative autonomy and fiscal autonomy.

Chapter 03 Provincial Council System and the Eastern Provincial Council

3.1. Population and Economy of the Sri Lanka

Sri Lanka has been considered diverse ethnic country since the ancient period. Six different kinds of ethnic groups live in Sri Lanka and they have developed their own cultures and identities.

Table 3.1. Population Details of Sri Lanka

Year	Sinhalese		Sri Lankan Tamils		Sri Lankan Moors		Indian Tamils		Total No. (000)
	No.	%	No.	%	No.	%	No.	%	
1901	2,330,800	65.36	951,700	26.69	228,000	6.39			3,566
1946	4,620,500	69.41	733,700	11.02	373,600	5.61	780,600	11.73	6,657
1981	10,979,400	73.95	1,886,900	12.71	1,046,900	7.05	818,700	5.51	14,846
2011	15,173,820	74.88	2,270,924	11.21	1,869,820	9.23	842,323	4.16	20,263

Source: Report 2012.Dept. of census and statistics Sri Lanka

According to demographic data the largest ethnic group is Sinhalese; they are 75% of the total population. The second largest ethnic group is Tamil

(Sri Lankan Tamil and Indian Tamil) they have 15% of the total population. Then Moor 7% and other 1% (Malay, Burgher). Table 3.1 shows demographic changes and ethnic diversity of the country.

Sri Lanka has been considered as a multi religious country. The main religion is Buddhism and 70.19% are Buddhist, Hindu 12.61%, Muslim 9.71%, Christian 7.45% and the other religions are 0.8%. This religious diversity is shown in the table 3.2.

Table 3.2 Religious diversity in Sri Lanka

Year	Buddhist		Hindu		Muslim		Christian		Total
	No.	%	No.	%	No.	%	No.	%	No.
1901	2,141,400	60.06	826,800	23.19	246,100	6.90	349,200	9.79	3,566,000
1946	4,294,900	64.51	1,320,400	19.83	436,600	6.56	603,200	9.06	6,657,300
1981	10,288,300	69.30	2,297,800	15.48	1,121,700	7.56	1,130,600	7.62	14,846,700
2012	14,222,844	70.19	2,554,606	12.61	1,967,227	9.71	1,509,606	7.45	20,263,723

Source: Report 2012. Dept. of census and statistics Sri Lanka

This ethnic and religious diversity caused for some unrest between ethnics since ancient period. Economically Sri Lanka has been considered as a lower middle income country (World bank , 2013) and high human development

country¹² (HDR, 2013). Sri Lanka's economic and social condition is shown in table 3.3.

Table 3.3 Economic and Social progress of Sri Lanka (2012)

Per Capita Income (PPP \$)	6247
GDP (\$ Billion)	\$59.42
Life expectancy (years)	75
Literacy rate (%)	93
Enrollment ratio for primary, secondary and tertiary education (%)	67
Population under the poverty line(%)	7.6
Human development Index	0.716
Human development Rank	92

Source: Human development report 2013

Sri Lanka has mostly had strong growth rates in recent years. The GDP per capita terms, it is ahead of other countries in the South Asian region.

3.2. Population and the economy of the Eastern province

The demography, administrative structure and political situation of the eastern province are very important factors to identify impacts of the provincial council system. The figure 3.1 shows demographic changes

¹² UNDP has categorized all countries into four as very high, high, medium and low human development countries.
<http://www.undp.org/content/srilanka/en/home/presscenter/articles/2013/04/02>

of the eastern province during the last century. The table further shows it has taken place considerable demographic changes in the eastern province after the independence.

As mentioned previous chapter the eastern province is a place to live for all key ethnics in the country since ancient history. Table 3.4 shows the evolution of the ethnic diversity recent the recent century.

Table 3.4. Demographic Changes in the Eastern Province

Year	Tamil		Muslim		Sinhalese		Total No.
	No.	%	No.	%	No.	%	
1881	75,318	58.9	43,001	33.66	5,947	4.66	127,755
1901	96,917	55.83	62,448	35.97	8,778	5.06	173,602
1946	136,059	48.75	109,024	39.06	23,456	8.40	279,112
1971	315,566	43.98	247,178	34.45	148,572	20.70	717,571
1981	410,156	42.06	315,436	32.34	243,701	24.99	975,251
2012	617,295	39.79	569,738	36.72	359,136	23.15	1,551,381

Source: Department of census and statistics, Sri Lanka. 2013

According to table 3.4, the percentage of the Tamil population has been reduced and the percentage of the Sinhalese population has been increased after the independence .After the independence all the governments encouraged agricultural colonies and large scale irrigation projects by providing lands and other subsidies. As a result of that large number of Sinhala ethnics could eligible to get lands in the Eastern province. This was the main cause of the demographic changes in the eastern province after the independence.

The governments who were ruling after the independence did not consider about political power decentralization and give self autonomy to minority groups in their provinces such as north and eastern provinces. In

addition to that some Tamil and Muslim leaders who elected from the eastern province did not contribute considerable roll on power devolution even some of them had served as ministers of the governments .However there were many criticisms against centralized political and administrative system of Sri Lanka.Previous governments could not identify and suggest possible solutions to the key economic and social issues of the provincial people .As a result of this grows unrest environment the Eastern province and recorded a lower economic growth .When EP compared in economically it was behind than other provinces and this poor economic condition shows of requirement

of regional development in the province. The table 3.5 shows eastern province economic conditions with other provinces.

Table 3.5. Provincial Economic comparison

Province	Share of GDP %	Growth of GDP %	Median Family Income (LKR)
Western	44.4	15.6	25,602
Central	9.8	14.5	14,029
South	11.1	21.4	13,733
Northern	3.7	27.1	15,201
Eastern	5.7	12.4	13,395
North Western	10	21.9	17,792
North Central	4.6	12.4	15,624
Uva	4.5	15.5	11,178
Sabaragamuwa	6.2	15.7	12,225
Sri Lanka	100	16.7	17,109

Source: Report 2012. Dept. Census and statistics Sri Lanka

As per economic indicators, such as GDP, growth of GDP and median family income of the provinces, the Eastern Province has become a poor province specially compared to the Western, Southern and Central provinces. The most important cause of the ethnic conflict in Sri Lanka is not only ethnic differences but the high poverty and other economic reasons also were important. (Wickramarathana J, p34). According to research was being done by Paul Collier in the Sub Sahara region revealed “poverty directly causes for civil wars”¹³ (Collier, P. 2007).

¹³ The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done about It is a 2007 book by Paul Collie

However these demographic and economic data reflect the necessity of higher level of economic and social development of the province and through EPC central government expect to enhance regional development.

3.3. Intergovernmental relations before PCS

When Ceylon received independence in 1948 local authorities consisted of municipal councils , urban councils, town councils and village committees. The local authorities enlargement of powers act no. 8 of 1952 transferred some powers from central government to local authorities and granted new powers to urban councils. In the thirty years after independence local authorities received further more powers.

During this time there were 40 amendments to the municipal councils ordinance, 44 amendments to the urban councils ordinance, 23 amendments to the town councils ordinance and 49 amendments to the village committees ordinance. However central and local relation was very closed and flexible most of important powers of the government were exercised by the central government.

A government appointed commission to recommend changes of local government structure in 1979, suggested to be established District Development Councils (DDC) to carry out development functions currently carried out by the Central Government. The 24 DDCs started functioning on 1 July 1981. At the same time 83 Town Councils and 549 Village Committees

were abolished. But the DDCs didn't live up to expectations and a new form of local government was introduced.

A government appointed committee (The Wanasinghe Committee) recommended that the DDC's be abolished and replaced by Divisional Councils (Pradeshiya Sabha or Pradesha Sabhai), sometimes called Rural Councils or Regional Councils. Parliament passed the Pradeshiya Sabha Act No. 15 of 1987 on 15 April 1987. The Divisional Councils were generally commensurate with their namesake Divisional Secretariats (Assistant Government Agent). The Local Authorities (Amendment) Act Nos. 20 and 24 of 1987 also changed the method of electing all local authority members from the first past the post using wards to proportional representation using open lists. [2] 257 Divisional Councils started functioning on 1 January 1988.

3.4. Brief history of Ealam war in Sri Lanka

As mentioned earlier Sri Lanka is a multi-ethnic society with diverse communities of people. They see themselves as Sinhalese, Tamils, Muslims, Burghers, Buddhists, Christians, and Hindus, low country and Kandyan, and of various class and caste groups. Sri Lanka has more than 2500 years written historical and cultural heritage. For Past 2500 years Sri Lanka has conducted various kinds of social, economic and political relationships with India. As the nearest and powerful country in the region India has done mix influence to the Sri Lanka.

Sri Lanka became an independent country in 1948 with ending more than 550 year colonial period¹⁴. In 1956 the government named Sinhala as an official language country. In 1972, the government changed the country's name from Ceylon and made Buddhism the nation's primary religion. The same time government did not consider about decentralization reforms. As ethnic tension grew, since 1976, many Tamil groups were formed under the leadership of extreme rebel Tamils youths, and it was a sign of beginning ethnic conflicts for a Tamil homeland.

Same time internal and external Tamil supporters started to campaign for a Tamil homeland in northern and eastern of Sri Lanka, where most of the island's Tamils reside. In 1983, the LTTE ambushed an army convoy, killing thirteen 13 soldiers and started a war against the government. During the war, the Liberation Tamil Tiger Ealam (LTTE) emerged as a fearsome terrorist organization, famed for suicide bombings, recruitment of child soldiers, and the ability to challenge Sri Lankan forces from the Jaffna Peninsula in the north down through the East side of the island. The U.S. State Department placed the LTTE on its terror list in 1997. In 2002, Norway brokered a cease-fire agreement between the LTTE and the Sri Lanka

¹⁴ Some parts of Sri Lanka were a colony of the Portuguese (1505-1648), Dutch (1648-1796) and England (1796-1815) and later whole country until 1948

government but later it was failed. The war ended in 2009 with the defeat of the Tamil Tigers¹⁵ by the military forces of the Sri Lankan government.

3.5. The constitutional framework of the provincial council system

As a solution for civil war of Sri Lanka “Indo-Lanka Agreement”¹⁶ signed by the President J. R. Jayawardene of Sri Lanka and Prime Minister Rajiv Gandhi of India on 29th July 1987 in Colombo (Shastri 1994, p. 200). This agreement commonly is known as the Indo-Lanka Accord. This agreement addressed a number of issues pertaining to the resolution of the conflict in Sri Lanka.

In regard to the constitution, it contained a joint declaration of the broad principles of a new settlement committing Sri Lanka to establish a system of devolved government called Provincial Councils. Provincial councils were established under the thirteenth amendment to the constitution, which came into effect on 14 November 1987 along with the Provincial councils act.

The Thirteenth Amendment

The PCS established under the provisions of the 13th amendment of the constitution of Sri Lanka. Consequent to the Indo-Sri Lanka Accord in 1987 two Bills (Thirteenth Amendment to the constitution and Provincial Council

¹⁵ Militant cadres of the LTTE called as the Tamil Tigers

¹⁶ Indo-Lanka peace accord signed in 1987 Indian Prime Minister Rajiv Gandhi and Sri Lanka President J. R. Jayawardana.

Act No.42 of 1987) was prepared. They were placed by the Parliament before the Supreme Court in terms of Article 120.4 of the 1978 Constitution to find out whether any of their provisions were inconsistent with the Constitution. A full bench of the Supreme Court was nominated by the Chief Justice to hear the case.

The determination of the Chief Justice and three Judges was that the said Bill to amend the constitution (13th Amendment) does not require the approval of the people by virtue of a referendum under Article 83 of the constitution (Uditha & Mahen 2009, p. 14). Five Judges to four (by 2/3rd Majority), the Supreme Court held that the provisions of the thirteenth amendment were within the framework of a unitary constitution. The crux of the majority decision was that despite the amendment the central government would continue to hold supreme power and that the PC had no control over the Judiciary (Wigneswaran 2009). Finally the Bill was passed (by 2/3rd Majority) and the Constitution amended accordingly.

Provincial Council Act

The provincial council system of Sri Lanka has been established under the provincial councils act. The Provincial Councils Act, No. 42 of 1987 was certified on 14th November, 1987. The Act brought to provide for the legal procedure to be followed in provincial councils. The main features of the Provincial Council Act, No. 42 of 1987 as amended by Act No. 27 of 1990

and Act No. 28 of 1990 (Wickramaratne 2010, p. 30). Part I of the Act deal with membership of PCs, Part II with the meeting and conduct of business, Part III to the finance and Part IV with the Provincial Public Service Commission.

3.6. Establishment of Provincial Councils

The Provincial Councils (PCS) were established by the president by orders published in the gazette in pursuance of his executive powers. Each PC consists of members elected by the voters of the Province, on the basis of the list system of proportional representation, the number of members for each PC being determined by its land area and population (Leitan 2001, p.2). Meaning the system seeks to provide for a structure of devolved power-sharing through the creation of popularly elected PCs, each lead by a chief minister (CM), who commands a majority in the PC (Shastri 1994, p. 206).

Each PC has a chief minister and board of ministers. There is also a governor of each province, who is appointed by the president. A board of ministers is appointed from among the members of the Council, with the chief minister at its head, and consisting of not more than 4 other ministers. The board of ministers is to aid and advise the governor in the exercise of his functions (Leitan 2001, p. 4).

A provincial council, unless dissolved before its time, shall continue for a period of five years from the date appointed for its first meeting, with the expiration of the said period of five years by itself operating as the dissolution of the council.

Establishing the Eastern Provincial Council

The Thirteenth Amendment provides for the establishment of PC in each of Sri Lanka nine Provinces. In addition, Article 154A (3) states as follows:

“Notwithstanding anything in the preceding provisions of this article, parliament may, by or under any law, provide for two or three adjoining provinces to form one administrative unit with one elected provincial council, one governor, one chief minister and one board of ministers, and for the manner of determining whether such provinces should continue to be administered as one unit or whether each such province should constitute a separate administrative unit with its own provincial council and a separate governor, chief minister and board of minister” (Article 154A (3)).

In pursuance of this article, parliament made provision in section 37 of the provincial council act no. 42 of 1987 allowing the president by proclamation to declare any two or three adjoining provinces as one administrative unit in the manner described above. The section also requires that when such a proclamation has been made, the president shall fix for a poll to be taken in each such Province to determine whether it should remain linked with such

other province or provinces (Ruana 2008, p. 83). The Northern and Eastern Provinces were merged on 08.09.1988 (Wickramaratne 2010, p. 09).

Under this provision first northeastern provincial council election was held in 1990 and a coalition of Tamil political parties captured the majority of the province.

They established provincial government first time in the northeastern province. Just over one year, ruling political party unanimously announced separate country in the northeastern province and president dissolved Northern eastern provincial council using his executive powers which are given by the constitution.

Until 4th June 2008 the North-Eastern Provincial Council was administered by the Governor which was appointed by the president. About twenty years, as per the judgment of the Supreme Court on 16th October 2006, the North-East Province has been de-merged into two separate provinces. The administration of the two provinces was brought under two governors.

Then following the end of armed hostilities in the Eastern Province in July 2007, elections to the EPC were held on 10th May 2008, in which the United People's Freedom Alliance (UPFA, and under which the Tamil Makkal Viduthalaipulikal (TMVP) contested) won the majority with 20 out of 37 seats. After that second election was held in 2012 and establish a provincial

government pro government coalition with Tamil and Muslim majority. The final results are shown in table 3.6.

Table 3.6. Results of Eastern provincial council election 2012

Political party	Votes	Percentage	Seats
United People's Freedom Alliance	200,044	31.58	14
Tamil National Alliance	193,827	30.59	11
United National Party	74,901	11.82	4
Sri Lanka Muslim Congress	132,917	20.98	7
National Freedom Front	9,522	1.50	1

Source .Department of elections Sri Lanka.2012

Under the provincial council system first election in the Eastern province was held in 2013 and the final result is shown in table 3.7.

Table 3.7. Final results of the Northern provincial council election 2013

Political party	Votes	Percentage	Seats	Land and police powers
Tamil National Alliance	353,595	78.48	30	Yes
United people's Freedom Alliance	82,838	18.38	7	No
Sri Lanka Muslim Congress	6761	1.50	1	Yes

Source .Department of elections Sri Lanka.2013

3.7. The Legislative powers of Provincial councils

The devolution of powers in respect of PC is specified under the 9th Schedule of the 13th Amendment to the constitution, under 3 lists.

1. **List I**, the Provincial Councils List, which specifies the powers and functions under which provincial councils may pass statutes in relation to their respective provinces;
2. **List II**, the Reserved List which indicates the powers which belong exclusively to the central government;
3. **List III**, the Concurrent List, under which both the center as well as the provinces is able to legislate

Provincial Council List

Article 154G explains the power the PC to make Statutes (Laws). Hence PC has Statute-making powers over the subjects named in List I of the Ninth Schedule to the constitution (Provincial Council List). Article 154G (1) of the constitution Reads: “every Provincial Council may, subject to the provisions of the constitution, make statutes applicable to the Province for which it is established, with respect to any matter set out in List I of the Ninth Schedule” (1978 Constitution, Article 154G (1)). This power is subject to the provisions in the constitution including Article 755 and Article 154 (G) (10).

However, the legislative power of the Provincial Council is not exclusive. The subjects allocated to the Provincial Councils cover a range of items which are

of particular relevance to regional development and provincial governance (Amarasinghe 2010, p. 92). The Provincial Council List (List I) enumerates 37 subjects over which legislative and executive powers are devolved to Provincial Councils. These are

1. Police and Public Order
2. Provincial planning.
3. Education and Educational services
4. Local government
5. Provincial housing and constructions
6. Provincial roads
7. Social services and rehabilitations
8. Provincial transport services
9. Agriculture and agrarian services
10. Rural development
11. Health
12. Indigenous medicine
13. Rest house and Circuit bungalows
14. Pawnbrokers
15. Market fairs
16. Food supply and distribution within the province
17. Cooperatives
18. Land

19. Irrigation
20. Animal husbandry
21. Commercial and trading enterprises within the province
22. Reformatories and Borstal institutions
23. Possession,transport,purchase and sale of intoxicating liquors
24. Burials and burial grounds
25. Libraries, museums and ancient and historical monuments
26. The regulation of mines and mineral development
27. Incorporation, regulation and judicial winding up of corporations with subjects to the province
28. Regulation of unincorporated trading,literary,scientific,religious and other societies
29. Theaters and dramatic performance, encouragement and development of sports
30. Betting and gambling, other than imposition of license fees and taxes
31. Provincial debt
32. Offenses against provincial statutes
33. Fees in respect of any of the matters in this list
34. Electric energy projects in the province
35. The borrowing of money to the extent permitted by the parliament
36. Provincial taxes and fees
37. Protection of environment in the province

The Statutes made by Provincial Councils have to be consistent with the other provisions of the Constitutions. Once a Provincial Council passes a statute on a subject in List I following the prescribed procedure the existing Parliamentary law shall remain suspended (Amarasinghe 2010, p. 91) and be inoperative within that Province so long as the statute is in force (Wickramaratne 2010 & Article 154G (8)6 of the 1978 constitution).

Where one or more Provincial Councils request parliament by Resolution making law on any matter on the Provincial Council List I, parliament may make law on that matter applicable only to the Provinces for which those Councils were established, by a majority of Members of parliament present and voting¹⁷.

So, it is plain and simple that the Parliament is not precluded from making laws in respect of a subject in the Provincial Council List, but it has to follow a special procedure prescribed by Article 154G.

Further this procedure requires the bill to be referred to every provincial council for its views prior to being placed on the order paper of parliament. Where every council approves the bill, it may be passed by a majority of members present and voting in parliament. Where one or more councils do not

¹⁷ Article 75 deals with Legislative Power. Accordingly Parliament shall have power to make laws, including laws having retrospective effect and repealing or amending any provision of the Constitution, or adding any provision to the Constitution.

agree to the Bill, such Bill is required to be passed by a two-third majority in parliament if it is to be applicable Island-wide, or else, or else it may be passed by a simple majority and becomes applicable only within the Provinces whose Councils approved it. However according to the 13th amendment of the constitution has given a wide range of power to provincial councils to make laws.

The Reserved List

There is no ambiguity with the reserved list. These subjects and functions are exclusively reserved only for the central government. These cover areas of national importance. The provincial council shall have no power to make statutes on any matter set out in the reserved list II of the ninth schedule. The matters set out in the Reserved List II are: National Policy on all subjects and functions relating to: Defense and Security with Internal security, law and Orders and prevention and detection of crimes. Foreign Affairs, Post and Telecommunication, Justice placed in relation to the Judiciary and Courts Structure, Finance in relation to National Revenue, Monetary policy, external resources and customs, foreign trade, Inter Provincial Trade and commerce, Ports and Harbors, Aviation and Airports, National Transport, Rivers and waterways, Shipping and Navigation, Maritime Zones including historic waters, territorial waters, Exclusive economic zone, State land , Mines mineral, Immigration and Emigration and Citizenship, Election including Presidential,

Parliament, Provincial Council and Local Authorities, Census and Statistics etc. (Ninth Schedule of the 1978 constitution).

The first item in the Reserved List is the “National policy on all subjects and functions. The Provincial Councils have no powers in respect of National Policy, even on subjects and functions included in the Provincial Council List. It is for the Parliament to lay down National policy. Therefore clear that the parliament retains its control of all important matters over provincial councils.

Concurrent List

The Concurrent List contains the matters in respect of which both the Central Government and the Provincial Council may make laws and statutes respectively. The Concurrent List (List III) enumerates 36 subjects, once again with some matters further elaborated in sub-matters. The following are some of the subjects listed in the Concurrent List. Namely; Higher Education, National Housing and Construction, Social Services and Rehabilitation, Agricultural and Agrarian Services, Health, Registration of births, marriages and deaths, Renaming of Town and villages, co-operative Banks, inter provincial irrigation, Social forestry and protection of wild animals and birds, fisheries, Animal Husbandry, Employment, Tourism, Drugs and Poisons etc. (Concurrent List, 13th Amendment to the 1978th Constitution).

Every Provincial Council may subject to the provisions of the constitution, make Statutes applicable to the respective Province, with respect to any matter

on the concurrent List III of the Ninth Schedule after such consultation with parliament as it may consider appropriate in the circumstances of each case (Article 154G (5) (a)). Also any matter on the Concurrent List the Central Government can legislate after consultation with the Provincial Council. If any provision of any statute made by a Provincial Council is inconsistent with the provisions of any such law made by Parliament, such law shall prevail and the provisions of the statute shall, to the extent of such inconsistency is void (Article 154G (5)).

3.8. Intergovernmental relations under the provincial councils

Under the provincial council system has established a provincial government in each and every province with including legislative, executive and judicial branches.

1. Provincial legislature (provincial parliament) - provincial councilors
who elected at the provincial council election.
2. The Provincial Executive-
 1. The Governor appointed by
President
 2. The Chief Minister and
Board of Ministers
3. Provincial judiciary- Provincial Court of Appeal and High courts

Legal Provision relating to the Governor (Appointed executive)

The Governor is an appointed executive and also representative of the central government in the province. According to 13th amendment of constitution “There shall be a Governor for each Province. He /she is appointed by the president by warrant and paid from funds allocated by parliament. The governor is the head of the province. The governor shall hold office for a period of five years from the date of assuming office. Subject as he/she is to hold the office during the pleasure of the president”, in accordance with Article 4 (b).

The governor has to act on the advice of the chief minister and board of ministers, except where he or she is required to act on his or her discretion. However, unlike the president who is the head of the cabinet, the provincial governor is not the head of the board of ministers of the province but is required to exercise his powers in accordance with the advice of the chief minister of the province so long as the board of ministers commands, in the opinion of the governor, the support of the majority of the provincial council.

The discretionary powers of the governor do relate to the following:

1. Appointment of the Chief Minister
2. Assent to statutes of the Provincial Council
3. Dissolution of the Provincial Council

4. Emergency situations, pertaining, for instance, to break down of the administrative machinery of the Provincial Council, situations of financial instability etc.

These discretionary powers assume significance since they are tied up with the possibility of central direction and intervention, and could highly impact on the center-province relationship.

According to Marasinghe (2009), the Governor is given the “Plenary Powers” and the “Delegated Powers” via 13th Amendment. The exercise of Governor based on plenary powers can be questioned in court of Law. The Governor’s delegated powers are

154c: Executive power extending to the matters with respect to which a Provincial Council has power to make statutes shall be exercised by the Governor of the Province for which that Provincial Council is established, either directly or through Ministers of the Board of Ministers, or through officers subordinate to him, in accordance with Article 154F.

154F (1): There shall be a Board Minister with the Chief Minister at the head and not more than four other Ministers to aid and advice the Governor of a province in the exercise of his function. The Governor shall, in the exercise of his functions, act in accordance with such advice,

except in so far as he is by or under the Constitution required to exercise his functions or any of them in his discretion.

154H (1): it deals with Assent of Governor for Statute made by a Provincial Council. Few and when they are exercised, they are exercised as a delegate of the President. Being so such exercise of delegated powers cannot be questioned in a court of Law (Ibid). Furthermore all plenary powers are subject to both judicial scrutiny and approval by the Board of Minister

The Governor's plenary powers do not give him an unfettered freedom to act, as the case laws suggest (*Mahindasoma v Maithripala Senanayake* (Governor, North Central Province) and others, (1996) 1SLR. 364(S.C.); *Dodangoda v. Bakeer Markar* (Governor, Southern Provincial Council) and others, (1993) 2 S.L.R.294, affirmed at (1994) 2 S.L.R.90.)

Under Article 154C the executive powers of the Governor "shall be exercised "either directly or through Ministers of the Board of Ministers or through officers subordinate to him/her".

The Chief Minister and Board of Ministers

The provincial council system was established based on democratic values such as universal franchise, multi-party system contesting system and equal treatment for all ethnics. Provincial elections are being held time to time as

per the provincial council election act. After the election Chief Minister and Board of ministers are appointed by the Governor. According to constitution those appointments and duties explained as follows

154F. (1) There shall be the Board of Ministers with the Chief Minister at the head and not more than four other ministers to aid and advise the governor of a province in the exercise of his functions. The governor shall in the exercise of his functions act in accordance with such advice except insofar as he is by or under the constitution required to exercise his functions or any of them in his discretion.

The Governor shall appoint as chief minister, the member of the provincial council constituted for the province, which, in his opinion, is best able to command the support of a majority of the members of that council. Provided that where more than one-half of the members elected to a provincial council are members of one political party, the governor shall appoint the leader of that political party in the council as chief minister. The governor shall, on the advice of the chief minister, appoint from among the members of the provincial council constituted for that province, the other ministers. Board of Ministers shall be collectively responsible and answerable to the provincial council. (13th Amendment)

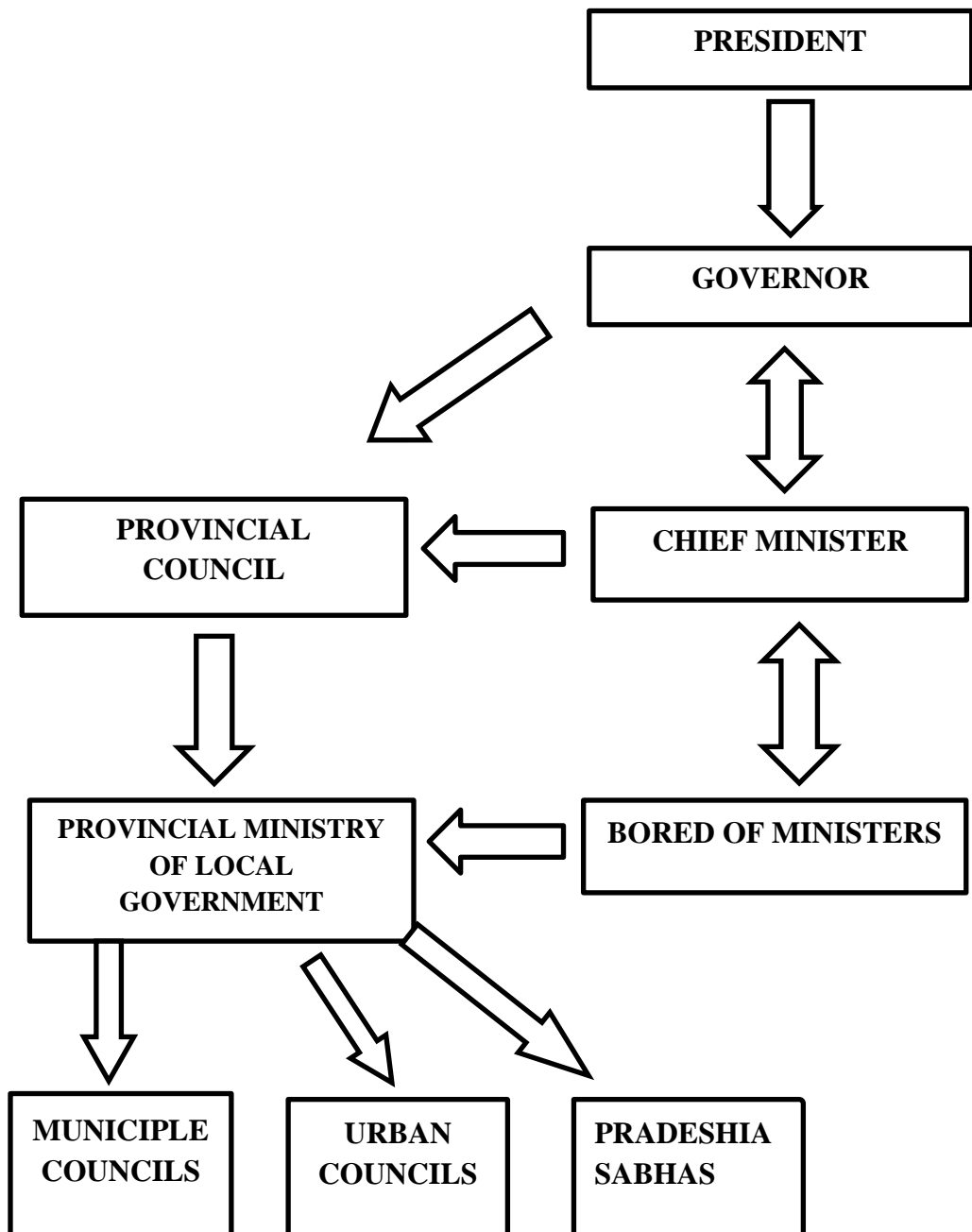
3.9. Types of Intergovernmental relations under the PCS

There are three kinds of Intergovernmental relationships identified in this study as following figure 3.1.

There are three kinds of IGR in the PCS as

1. Central government and provincial council
2. Elected executive and Appointed executive (In the PC)
3. Provincial Council and local government.

Figure 3.1 Intergovernmental relation and conflict



Central - Provincial relationship

The Relationship between central government and provincial councils identifies in respect of political, administrative and fiscal autonomies. Politically central government and provincial governments deal with different subjects as well as same subjects. Both institutions are established on democratic principles. In the eastern province case, during the last 6 years in these two layers has been ruling same political party but different ethnics. Since the establishment of provincial councils in 2008, the center-province relations have gone through different phases; and fluctuated between cordial and frosty circumstances. Even today the relations cannot be considered ideal or admirable irrespective of the fact that all the provincial councils and the central government belong to the same political party or coalition.

As per administrative aspects there are several close relationships take place between central government and local governments. According to 154 (b) (2) of 13 amendment the constitution “The Governor shall be appointed by the President by warrant under his hand, and shall hold office, in accordance with Article 4 (b), during the pleasure of the President”

On financial aspects the Provincial councils mostly depend on central government funds which are allocated by the general treasure of the central government. Most important tax bases and other key sources of the country’s economy and finance are held by the central government .The Final result of

this is provincial councils have to severely depend on central government.
(Country report of Local government, UNESCAP, 2004)

As per the 13th amendment of the constitution has explained further 154N, (1)
If the President is satisfied that a situation has arisen where the financial stability or credit of Sri Lanka or of any part of the territory thereof is threatened, he may by proclamation make a declaration to that effect.

(2) A Proclamation issued under paragraph (1)

- (a) May be revoked or varied by a subsequent Proclamation;
- (b) Shall be laid before parliament;
- (c) Shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by a resolution of parliament:

Most of the conflicts between the central and the provinces happened when a province or provinces belong to a different political party than the central government. In 1993, when two provinces (North Western Province and Southern Province) went to the opposition of the incumbent government at elections there arose considerable frictions. (J.Wickramaratna,2011)

It can be said based on the subsequent experience, however, that when the same party or the coalition is dominant or controls the center as well as the provinces, the relations are mostly cordial at least overtly.

Elected Executive and Appointed Executive relations

In the provincial council structure have established three branches as a legislature, executive and judicial. Their powers have been explained by the constitution respectively. The head of the provincial administration is the Governor who non politician and appointed by the president of the country.

According to 154 of the 13 amendment of the constitution “Executive power extending to the matters with respect to which a Provincial Council has the power to make statutes shall be exercised by the Governor of the Province for which that Provincial Council is established, either directly or through Ministers of the Board of Ministers, or through officers subordinate to him, in accordance with Article 154F.

In addition to that 154 (B) 11 explains furthermore about interrelationship between board of ministers and governors in the provincial administration. “It shall be the duty of the chief minister of every province- (a) to communicate to the governor of the province all decisions of the board of ministers relating to the administration of the affairs of the province and the proposals for legislation;

(b) To furnish such information relating to the administration of the affairs of the province and proposals for legislation as the governor may call for; and

(c) If the governor so requires, to submit for consideration of the board of ministers any such a matter on which a decision has been taken by a minister but which has not been considered by the board.

Provincial –Local Relationship

The local government administration structure has been changed completely by the provincial council system .According to the 13th amendment of the constitution subject of local government devolved to the provincial councils. As a result of that one minister of the provincial council as the minister of provincial local governments as well as one key department has established under the provincial government as the provincial department of local government.

According to the municipal council ordinance,urban council ordinance and pradeshiya sabha act the minister of provincial local government can dissolve any local government body, investigate ,remove mayor or chairman or councilors and suspend councils LA activities without further notice.

In the operational level Local and provincial relations have taken place very closely on financial matters. The funds for recurrent budgets to the local authorities are channeled through the Provincial Councils. Most of the local authorities do not get sufficient revenue and depend on the central government, or any other development funds. If the Provincial Council and the local authority are under different political parties the problem of transfer is compounded. Before the formation of the Provincial Councils the funds were

directly transferred by the central government to the LAs. (Country report of Local government, UNESCAP, 2004)

The provincial council system of Sri Lanka considers as an alternative solution to the three decades long ethnic conflict. This solution created with Indian intervention in 1987 without further studying. There are number of criticism and proposals on PSC have been forwarded by interest groups as well as political leaders. The EPC has experienced exercising provincial powers more than six years so far and it seems necessary to evaluate this system. Even expected a permanent solution to the ethnic unrest through this system cannot see progress so far. Specially should be reviewed the capacity of this system whether is that fulfill minority ethnic necessities successfully or not. Next chapter examines the degree of regional autonomy of the EPC with respect to fulfill minority ethnic's necessities at the regional level.

Chapter 04 Research Data and Methodology

4.1 Methodology

This chapter interprets research methodology which used for the data collection and analysis. The qualitative research method was mainly used for that but in some instances the quantitative method is used as well. Qualitative techniques are used in data collection and analysis using decentralization models to find the degree of regional autonomy (depth of decentralization) and intergovernmental relations as explained in the theoretical framework .

Practical approaches of those concepts are extremely different and difficult to calculate using quantitative techniques and therefore the qualitative techniques are mainly used to analyse the human actions and the economic, social, cultural and political environmental conditions which depends the overall results.

However the regional autonomy of the EPC, is evaluated using quantitative methods and a sample survey was done to collect data using a structured questionnaire .Hence surveys, findings and calculations of this study do both in quantitative and qualitative ways.

4.2. Research area

The Eastern province of Sri Lanka has been selected as the research area for this study. When comparing with the other provinces of the country the

Eastern province is considered as a Multicultural and multi religious area. The Eastern Provincial Council established in 2008 just one year later brutal civil war. Still eastern provincial council is being adjusted to new trends in political, administrative and fiscal areas. Area and the Population data of the Eastern Province are in table 4.1 and figure 4.1.

Table 4.1

Population Data of Eastern Province of Sri Lanka

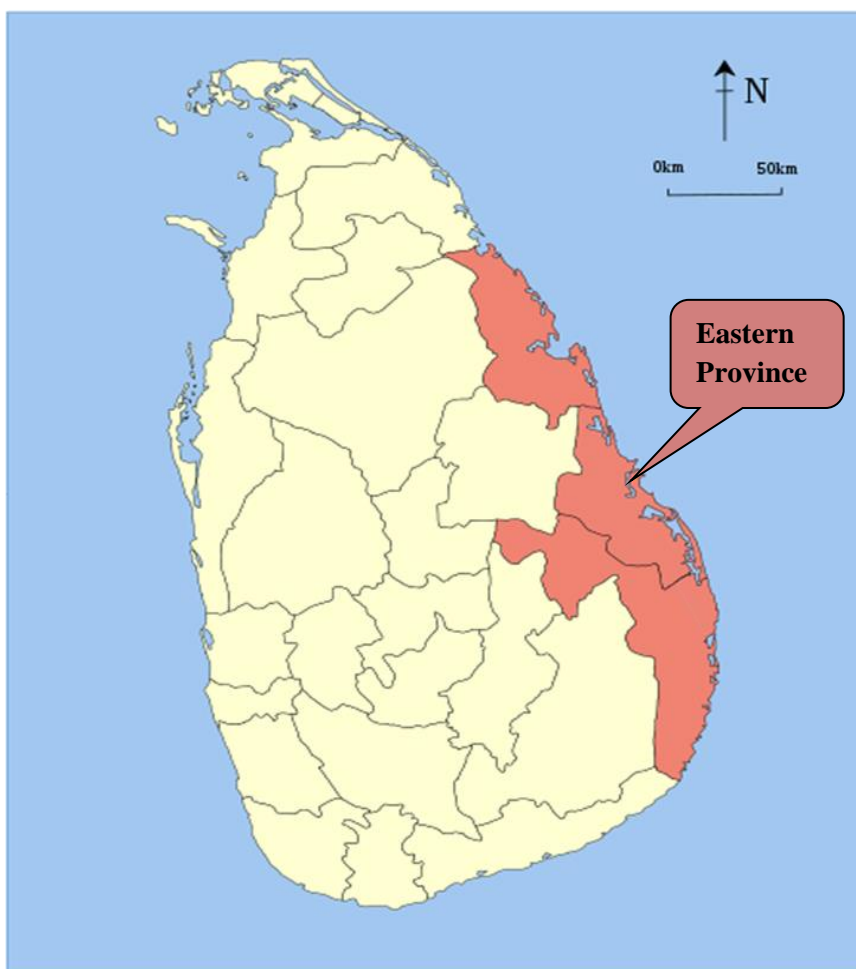
Administrative Districts ¹⁸	DS Divisions ¹⁹	Land Area Km ²	Tamils	Muslims	Sinhalese	Total
Ampara	20	4415	112,915	282,484	251,018	648,057
Batticaloa	14	2854	382,300	133,844	6127	525,142
Trincomale	11	2727	122,080	152,854	101,991	378,182
Total	45	9996	617295	569,182	359,136	1,551,381

Source: Dept. of census and statistics Sri Lanka.2012

¹⁸ District means key administrative and electoral body of the country and there are 25 districts in Sri Lanka.

¹⁹ Divisional secretariat divisions are subdivisions of districts and many divisional secretariats divisions consists in a district

Figure 4.1 Map of Eastern province



The Eastern Province is divided into three administrative districts, 45 Divisional Secretary Divisions (DS Divisions) and 1,085 GramaNiladariDivisions²⁰ (GN Divisions).

²⁰ Gramaniladari divisions are the smallest administrative body of Sri Lanka and there are many Gramaniladari divisions under a Divisional secretariat.

When compared with total figures of Sri Lanka the eastern province shows rather different picture in every aspect. Not only the ethnic diversity but also the religious background is significantly different than other provinces. Table 4.2 shows the ethnic and religious diversity of the Eastern province compared to the country. The most important characteristic is a huge area of this province was effected to Tamil Ealam war more than two decades.

As the research area the eastern province is significantly important to study multi ethnic diversity and intergovernmental conflicts .Especially in a diverse society the regional autonomous unit face numerous problems not only internal power conflicts but external power conflicts too.

Table 4.2 Ethnic diversity of the Eastern province

Ethnicity	Eastern province (%)	Country (%)
Sinhala	23.15	74.9
Tamil	39.79	15.4
Muslim	36.72	9.2
Others	0.34	0.5

Source: Dept. of Census and statistics Sri Lanka.2012

This analysis shows the intergovernmental power conflict in a diverse ethnic society and also explains how it affects to achieving

decentralization objectives. Political decisions and policy implementations are not fixed in every society but the decentralization process in Sri Lanka is always associated with the political views. Hence Policy making and implementations of decentralization are being changed according to the political leaders, policies of political parties, the agendas of the governments and the external pressure.

The eastern provincial council case has been shown various types of power struggles both in internal and external. The PCS has been introduced as a solution for the ethnic problem in the north and eastern provinces and PCS has been implemented more than five years in the Eastern province. The success of the system also should evaluate in the problematic area such as eastern province because PCS are being questioned by the various groups on its success.

4.3. Variables and Research Hypothesis

4.3.1 Variables

The concept of decentralization is a complicated and most sensitive issue in the country because of Tamil Ealam war. As a war affected country more than three decades, the decentralization process is being suggested changes in intergovernmental relations in order to give some degree of autonomy to the provincial people. Five years later it has been created some critical issues on

regional autonomy and local democracy of minority ethnic groups of the eastern province. When dealing with diverse ethnic and religious groups must understand their needs and feelings. If not the final outcomes of the decentralization changes may be useless or will be made conflicts among groups. Devolving the power to the regional level is mandatory in order to give political, administrative and fiscal autonomy to the minority ethnics. However all aspects of the decentralization depend on the degree of the autonomy which shared by the central government.

The PCS has to be evaluated and given recommendations on whether the EPC has been given enough regional autonomy under the provincial council system to solve their issues at the regional level. The success of the PCS system depends on the Regional autonomy it has been shared by the central government. So I considered regional autonomy as the dependent variable. Under that there are three types of regional autonomies

1. Political Autonomy
2. Administrative Autonomy
3. Fiscal autonomy

In this study intergovernmental relation has been considered as independent variables. There are two kinds of intergovernmental relations are being happened between provincial and central government. One is direct relations between the central government and provincial government and other one is

through a provincial governor (relations between the elected and appointed executives in the PCS).

The economic condition of the EPC, international influence and political party opinions are considered as constant factors in this study. Regional autonomy is effective affirmative action for an ethnic conflict and also regional development. Specially political, administrative and fiscal autonomy make path to protect both objectives the ethnic diversity and unitary system.

4.3.2 Research Hypothesis

This research has focused on measuring regional autonomy of the ethnic diversity in the EPC and key hypothesis is H_0 and H_1 .

H_0 = The Provincial council system (PCS) has no impacts on minority ethnic people in the Eastern Provincial Council (EPC) of Sri Lanka. (PCS no impacts to the ethnic problem because EPC has not enough Political, administrative and fiscal autonomy)

H_1 = The Provincial council system (PCS) has positive impacts on minority ethnic people in the Eastern Provincial Council (EPC) of Sri Lanka. (PCS has impacts to the ethnic problem because EPC has enough political, administrative and fiscal autonomy)

4.4 Data collection

Primary data and secondary data are used in this study in order to identify regional autonomy in the Eastern Provincial Council for the period of 2008 to 2012 .

4.4.1 Primary data

The main purpose of this study is investigating political, administrative and fiscal autonomy of the EPC and evaluate impacts of the PCS with its objectives. For this, different data collection formats were used by different components to measure different autonomies. My primary data collection mostly focused on EPC and its Departments and Ministries.

So the Primary data were collected about 20 devolved subjects out of 37 subjects mentioned under chapter 4.6 , from the provincial Ministries, Departments and provincial public officers in the Eastern Provincial Council in order to explain regional autonomy (political, administrative and fiscal) of the EPC .

There are five provincial ministries in the province and eight key departments in the EPC who operates provincial powers . So a survey was done using 20 people (provincial public officers) who work in those institutions for more than five years. The general public and politicians were not involved in the data collection process due to lack of knowledge about the provincial council

system and political bias respectively. In addition to that some data were collected from the Northern Province. Primary data collected from Provincial councils and Local government authorities are as follows.

Table 4.3 Sources of Primary Data collection

Data collection source	Number of Institutions/persons
Provincial councils	2
Provincial ministries	5
Provincial officers	20

4.4.1.1 Field Survey

Some interviews were conducted with higher and middle ranking officials of the provincial councils not only in the eastern province but in Southern and western provincial councils too. Regional and local politicians were not interviewed because they all respects their party opinion and have not given their own opinions on regional autonomy. However, higher ranking officers who have worked in the provincial councils since the beginning of the PCS have many experiences and vigilant and prudent opinion to develop this system.

A survey was done using a questionnaire (Appendix 11) to collect data on regional autonomy and intergovernmental conflicts .Twenty (20) Public officers who have worked Five years in PCS participated in that. There are a few reasons for selecting only public officers for this survey:

- Firstly their knowledge and experience about PCS is higher than others.
- Secondly they have unbiased opinions than others.
- Politicians cannot express their personal opinions in this regard because they have their party politics influence.
- General public is considered as unaware group in this regard.

4.4.2 Secondary data

Relevant data (population, Gross domestic product (GDP), demographic statistics, election results) collected by the government ministries, departments, the department of census and statistics, the central bank of Sri Lanka and non-governmental organizations were used as the secondary data. Due to conflict situation in the Eastern Province the relevant data could not be found for the period of 1983 to 2007. Meantime some discussion papers which were published by some organizations, in journals and in weekly newspapers on the power conflicts of the provincial councils were also used.

4.5. Evaluation model for data analysis

Using 20 devolved subjects to EPC an index was developed based on decentralization concepts of Litvack and Seddon ("Decentralization Briefing Notes." Washington, DC: World Bank).

The central government has shared 37 subjects to the PCS and among them 20 subjects were selected for this analysis. Using the evaluation index Political, administrative and fiscal autonomies were measured separately.

According to the level of autonomy practiced in the province, the scores are given to the each subject as 2, 1 and 0 (zero) as follows (only for political and administrative autonomies and part 2 of fiscal autonomy):

1. If the PC has the power to make law/administrative matters on any subject the score is 2 (perfect autonomy).
2. If the power of the subject in PC limits by the central government the score is 1 (Incomplete autonomy).
3. If the PC has no any power on any subject even though it is mentioned in the province list then the score is 0 (No autonomy).

For the fiscal autonomy , a little bit different measurement is used. For this measurement, the revenue capacity and autonomous expenditure (in a specific year) of the PC is considered as follows.

1. Annual provincial revenue as a % of annual provincial expenditure
(Score range is 20 to zero [0])

Table 4.4. Score Chart for Fiscal Autonomy

Revenue as a % of Expenditure	Score
100%	20
80%	16
40%	08
10%	02
1%	0.2

2. Autonomous Expenditure (ability to use funds for provincial subjects without getting approval from the central government) – subjects are similar to the political and administrative autonomies and scores are given as 1 and 0 [zero].
 - 2.1 If the PC has the power to spend funds on any subject in the list of twenty without barriers, the score is 1.
(perfect fiscal autonomy).
 - 2.2 If the PC has the no power to spend funds on any subject in the list of twenty, the score is zero [0]. (No fiscal autonomy)

This is a quite flexible and more reasonable evaluation system and operational actions of the PC on political, administrative and fiscal matters can be categorized as mentioned above. Finally this study measured overall autonomy using all three autonomies. An evaluation index on regional autonomy compounding political, administrative and fiscal autonomies is developed and the structure of the index is in table 4.5.

However some Intergovernmental relations cannot measure numerically due to nature of relations. As an example the relationship between the provincial governor and chief minister, could not be calculated numerically. So a qualitative method and a survey is used to observe and explain those kinds of relations.

Table 4.5. A model to evaluate regional autonomy

Autonomy	Indicator	Score
Political	1. Ability to Make laws on devolved subjects (20*2)*	40
Administration	1. Redistribution Authority through the Provincial Ministry/Department/Authority 2. Recruitment/promotion/transfer/Retirement on provincial public (20*2)*	40
Fiscal	1. Provincial revenue as a percentage of provincial expenditure (20) 2. Ability to Autonomous Expenditure (20)	40
Total		120

*Fully Autonomy=2

Half Autonomy=1

No autonomy=0

Using the evaluation indicators (table 3.5) each autonomies were calculated for 20 subjects as in the table 4.6.

Table 4.6 Scoring System of Political and administrative autonomy

	Subject	PC	PC+CG	CG	Score
1	Police and Public order			✓	0
2	Provincial planning		✓		1
3	Local Government	✓			2

Chapter 05 Findings and Analysis of the study

This study has focused on the regional autonomy of the provincial council system of Sri Lanka. The provincial council system was introduced as a solution to the ethnic conflict and implemented in the war affected Eastern province since 2008. Through PCS, the central government has expected to share power up to regional level in order to empower minority ethnics for decision making process. The success of this system depends on the degree of regional autonomy. Firstly, this study is measuring the degree of regional autonomy of the provincial council system using the EPC as a research area. In a diverse ethnic society such as Eastern province, through the decentralization must be devolved the sufficient powers to regional level in order to fulfill Political, administrative and fiscal aspects. As mentioned before the degree of regional autonomy is the key factor which decides the success or failure of the PCS.

5.1. Regional Autonomy of the EPC

This study examines the regional autonomy of the provincial councils using Litavac and Seddon's components of the decentralization. Those explanations were based on three key categories as political, administrative and fiscal and Table 3.1 shows the major components of decentralization as per explained by Litavac and Seddon's. According to them for effective decentralization process there should be three kinds of powers must be shared to sub national

governments. As a decentralization step the competency of achieving objectives of the PCS depends on the degree of regional autonomy it has been given. Without political, administrative and fiscal autonomy to regional or local level the decentralization would not be successful. Sometimes such kind of decentralization may cause for other problems such as ethnic conflict, poverty and violence.

The PCS of Sri Lanka was established under the 13th Amendment of the constitution in order to devolve political power regionally. The main objective of this system was at the regional empowerment of the Tamil minority in the Northern and Eastern provinces of the country and finally stops the virulent armed conflict.

Under the provincial council act the EPC is responsible for a range of subjects assigned to him legally, and for their execution the provincial government will have the necessary funds and be responsible only to the people in the province. The central government is ordinarily responsible for things that are common to the entire country and also things which are best done from one center. Provincial councils are assigned subjects which are best performed in the periphery and those that are particular to each province. In such a context the regional unit of government will be a partner sharing power with the central government within assigned boundaries and not a mere provincial agent in the center.

On the other hand the provincial council system established to provide political institutions closer to citizens giving own decision-making powers at the local level. The provincial council system is expected to create the public space for democratic participation and public accountability at the provincial and local level, and hopes it may be a decision making ground for minority ethnic groups to solve their own problems.

Under the provincial council system in Sri Lanka, 37 subjects are devolved directly to the provincial councils and the other 36 subjects are shared as concurrent list which exercise with the central government. Superficially provincial councils have power in 73 subjects directly and with coordinating the central government. It seems the eastern provincial council has been sharing a wide range of powers by the central government with the assuring unitary framework of the country.

As mentioned under the conceptual framework According to Litvack and Seddon the regional autonomy divides into three parts as

1. Political autonomy
2. Administrative Autonomy
3. Fiscal Autonomy

Composite index to evaluate regional autonomy

This study evaluates the regional autonomy of the EPC under three major criteria using indicators based on the components in the Litvack and sadddon's decentralization concepts.

Political Autonomy-Delegation of political power, and it explains the ability of lawmaking under devolved subjects

Administrative autonomy-Redistribution of Authority, and it explains the ability to establish institutions and recruit officials for devolved subjects

Fiscal Autonomy-Self-financing and autonomous expenditure, and it explains revenue capacity and capacity of autonomous spending

For this study including the above three areas, a regional autonomy evaluation indicators redesigned. In the current context a composite index cannot be found to evaluate the regional autonomy. Using this measurement can calculate political, administrative and fiscal autonomy separately as well as overall regional autonomy. Table 5.2 shows regional autonomy index which used to measure regional autonomy of the EPC. For this research twenty subjects were used which devolved to the EPC by the 13th amendment. Firstly calculated political, administrative and fiscal autonomies separately and secondly overall autonomy is calculated.

Table 5.1 A model to evaluate regional autonomy

Autonomy	Indicator	Score
Political	1. Ability to Make laws on devolved subjects (20*2)*	40
Administration	1. Redistribution Authority through the Provincial Ministry/Department/Authority 2. Recruitment/promotion/transfer/Retirement on provincial public (20*2)*	40
Fiscal	1. Provincial revenue as a percentage of provincial expenditure (20) 2. Ability to Autonomous Expenditure (20)	40
Total		120

* Fully Autonomy = 2 Half Autonomy = 1 No autonomy = 0

5.2. Political Autonomy

This study firstly focuses on the regional political autonomy of the EPC and it measured by using regional political autonomy criteria which mentioned above. Instead a separate country or a federal system to the minority ethnic groups the central government shared important central government functions to the provincial councils. According to the first list of the 13th amendment of the constitution shared 37 subjects to the provincial councils and those subjects mentioned in the 3rd chapter. According to the constitution the legal power on the above 37 subjects have been devolved to the EPC. However minority ethnic groups have not accepted this power devolution and they criticise this as a superficial decentralization.

So this study examines the real political autonomy after the decentralization in the EPC. However for this study some quantitative method is used to measure regional political autonomy of the EPC as a pilot survey. For that, 20 key subjects which fully vested to the EPC under the 13th amendment of the constitution are used and assumed that all these 20 subjects are important to the EPC. Under the political autonomy the ability of law making of the EPC is considered and also assumed that no other barriers rather than central government intervention exists.

As per the index, the devolved twenty subjects to the EPC are graded by the following scoring system.

1. Devolved to the EPC under the constitution but so far EPC has no power to make laws (law making power zero) = zero (0)
2. Devolved to the EPC under the constitution but the central government has withdrawn some power and EPC has no full power (law making power incomplete) = One (1)
3. EPC has all the law making power as devolved (100% law making power) = two (2)

Table 5.2 Evaluation of Political autonomy of the EPC

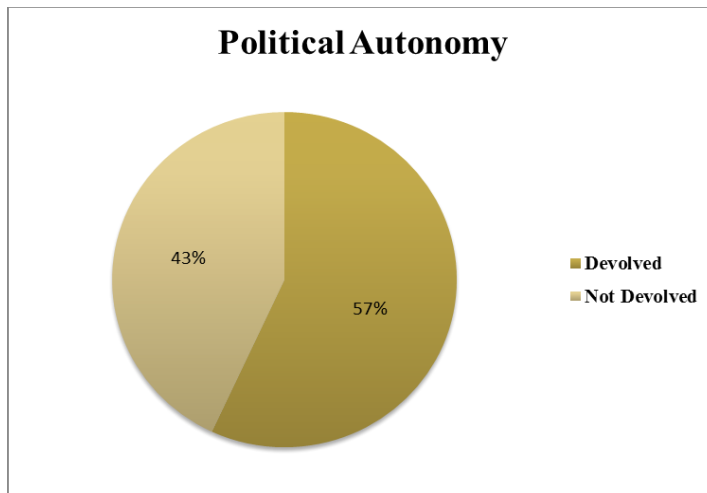
	Subject	EPC (2)	EPC+ CG (1)	CG (0)	Scores
1	Police and Public order			✓	0
2	Provincial planning		✓		1
3	Education and Educational Services		✓		1
4	Local Government		✓		1
5	Provincial Housing and Constructions		✓		1
6	Provincial roads		✓		1
7	Social services and rehabilitations		✓		1
8	Provincial transportation services	✓			2
9	Agriculture and agricultural services		✓		1
10	Rural development		✓		1
11	Health		✓		1
12	Indigenous medicine	✓			2
13	Rest house and circuit bungalows		✓		1
14	Pawnbrokers	✓			2
15	Market fairs	✓			2
16	Food supply and distribution within the province		✓		1
17	Cooperatives	✓			2

18	Land			✓	0
19	Irrigation		✓		1
20	Animal husbandry (Live Stocks)		✓		1
	Total	10	13	0	23

According to the scoring system on the devolved powers to the EPC, for a perfect political autonomy the total score should be **40** to the considered 20 subjects. But the EPC has earned only **23** out of 40. Using the considered twenty subjects political power of the EPC is calculated as a percentage and it was 57% and it shows the EPC has not been devolved powers by the central government. However there are many reasons for this situation and it means the EPC does not exercise perfect political autonomy due to the central government interventions. This results show in figure 5.1 and it proves the incomplete political autonomy of the EPC.

Some subjects still do not devolve to the EPC and fully exercised by the central government. Some very important functions, such as power of police and land administration have not been devolved and still remaining under the central government.

Figure 5.1 Real Political Autonomy of the EPC



The central government still believes this power may be an encouragement to separate country demand of minority ethnics. Sri Lanka shows that there is no tendency to give land and Police powers to the Provincial Governments including the Northern and Eastern provincial governments. According to the 13th amendment of the constitution, power of subjects like land and police devolved to the PC but in practice the central government still did not devolve those two subjects.

The central government has withdrawn some powers and so provincial powers are exercised both central government and PC .For an instance powers of education and health services have been devolved to the PC (except making national policies on those) but later government withdrew some schools and hospitals to their administrative authority. As a result of that there are two kinds of schools and hospitals in the eastern

province as well as in other provinces, maintained under the central government and EPC.

So this study examined many central government interventions to EPS subjects. The central government has the power to interfere to the EPC (as well in other provinces) subjects and it has caused to restrict the lawmaking power of the EPC. In the development process the central government has done some provincial functions as rural developments and road developments. Recent projects such as “Maganaguma (road development) and “Gamanaguma”(Village Development) are creations of the central government, and naturally they operate under the central government. However, all their functions are subject explicitly assigned to the provincial councils under the 13th amendment.

In addition to that there are many barriers to limit the lawmaking powers of the EPC. Thirteenth Amendment was within the framework of a unitary constitution. Also the president remained supreme in the executive field. The provincial Governor is a head who is subject to the control and directions of the Executive President and the Provincial Council in terms of the Thirteenth Amendment would only be a body subordinate. If the President gives directions to any Provincial Council they have to be complied with.

The parliament of the central government remains supreme and can be exercised of its legislative powers determine the scope of the powers of the

Councils. Also the statute of a PC applies only within the Province. Parliament retains a variety of ways in which it can also pass laws on the subjects assigned to the Provincial Council.

Under this research the opinion of all provinces on land and police subjects is examined and they have different ideas on that. Sinhala dominated provincial councils did not ask police powers and the research results in table 5.4 clearly shows seven provincial councils do not ask land and police subjects to provincial councils because they ruled by the same political party which is ruled central government and also their majority is Sinhala people. When both the central and the provincial council control by a same political party, the provincial government works with the central government interest. Two provincial councils asked power of the Land and police because these PCs are governed by the minority ethnics. Specially recently established Northern Provincial Council has asked the power of these important subjects as explained in 13th amendment.

Table 5.3 Provincial request on land and police subjects

Provincial Council	Ruling party of PC	Land	Police	Population %
Western	UPFA	Yes	No	28.8
Central	UPFA	Yes	No	12.97
Southern	UPFA	Yes	No	12.18
Northern	TNA	Yes	Yes	5.22
Eastern	UPFA	Yes	Yes	7.66
North Western	UPFA	Yes	No	11.61
North Central	UPFA	Yes	No	5.91
Uva	UPFA	Yes	No	6.3
Sabaragamuwa	UPFA	Yes	No	9.63

Source: Ministry of Provincial council and local government Sri Lanka .2012

Table 5.4 clearly shows the opinion of the minorities in the land and police subjects. This result shows that the PCS are not exercised on the minority demand in the provinces including the EPC. Meantime in September 2013; The Supreme Court of Sri Lanka has ruled that powers over land are vested in the central Government, and not in the provincial councils. This new trend will make another blow about the existing capacity of law making power of the PCS in Sri Lanka.

5.3 Administrative Autonomy

As mentioned above according to Litveck and Saddon, for administrative autonomy, there should be several requirements such as redistributing of authority, shift of responsibility, strengthening of local administrative capability, and delegation to lower level units. Administrative Autonomy

defined as the management capacity of the administrative organization. In this study two major components of Litveck and Saddon theory were selected to measure administrative autonomy. One is an **institutional capacity to administrate subjects** and the other is **capability to maintain provincial public service**.

The EPC eventually facilitated the establishment of following administrative centers at the provincial level corresponding to the legislative and executive organs of the of the PC system;

1. Office of the governor
2. Office of the provincial council
3. Office of the chief secretary
4. Office of the provincial public service commission
5. Office of the chief minister
6. Office of the provincial ministers
7. Office of the provincial ministries
8. Office of the provincial statutory authorities.

The important thing is that those are not directly involved with considered subjects in the study. So in this study administrative autonomy of the EPC was evaluated using a similar measurement which used to measure political autonomy. The same 20 subjects were used with the capability of institutions

and provincial public service. The similar scoring scale was used as 0, 1, 2 and graded the power of them as follows:

1. On the relevant subject, no provincial department/institution has no right to provincial public service and central government control administrative power=zero (0)
2. PC has Provincial Dept./Institute but no right to provincial public service on the relevant subject = One (1)
3. The PC has Provincial department or statutory authorities and same time it has all authority on public service matters. This means EPC has full autonomy on administrative autonomy = two (2)

Table 5.4 Evaluation of Administrative Autonomy in the EPC

No.	Subject	Has provincial Dept./Board/ Authority?	EPC to recruit and Other establishment authority?	Score
1	Police and Public order	No	No	0
2	Provincial planning	Yes	No	1
3	Education and Educational Services	Yes	No	1
4	Local Government	Yes	Yes	2
5	Provincial Housing and Constructions	Yes	No	1
6	Provincial roads	Yes	No	1
7	Social services and rehabilitations	Yes	No	1
8	Provincial transportation services	Yes	Yes	2
9	Agriculture and agricultural services	Yes	No	1
10	Rural development	Yes	No	1
11	Health	Yes	No	1
12	Indigenous medicine	Yes	No	1
13	Rest house and circuit	Yes	Yes	2

	bungalows			
14	Pawnbrokers	Yes	Yes	2
15	Market fairs	Yes	Yes	2
16	Food supply and distribution within the province	Yes	No	1
17	Cooperatives	Yes	Yes	2
18	Land	Yes	No	1
19	Irrigation	Yes	No	1
20	Animal husbandry(livestock)	Yes	No	1
	Total	19	6	25

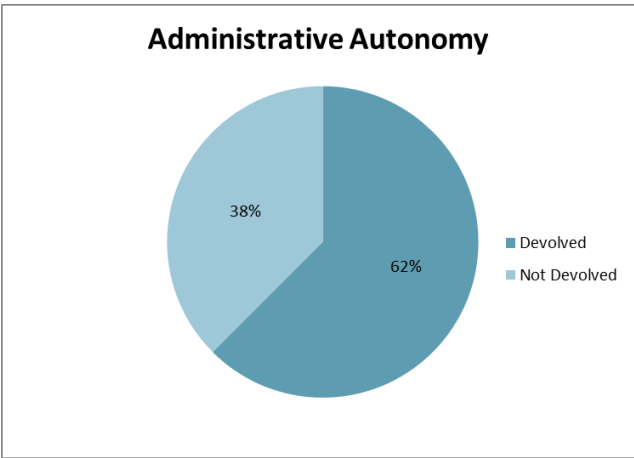
The EPC has established many provincial departments and statutory authorities in order to fulfill provincial subjects. As the examples Provincial Department of agriculture, provincial department of irrigation, provincial department of motor traffic etc. But same time EPC has low power on provincial public service. Most of the head of departments recruited by the central government and they are most temporarily attached to the EPC. As a result of that the EPC has not been devolved

prefect administrative authority under the PCS. Finally as per the administrative index , EPC has earned **25** out of **40** marks. As a percentage,

administrative autonomy of the EPC is **62%** and still **32%** of autonomy is remaining with the central government, even though this is comparatively a positive sign about the decentralization of Sri Lanka. This result is shown in figure 5.2 in two categories as devolved and not devolved. According to that administrative autonomy scorecard shows better progress than political autonomy.

But all the heads of departments and managers of the statutory boards have been attached by the central government. The authority on recruitment, salary, promotions, disciplinary matters (except officers in Education Services) and retirement decisions of higher ranking officers in the EPC are decided by the central government.

Figure 5.2 Administrative autonomy of the EPC



Especially administrative powers on all higher ranking positions keep with the central government. The central government exercises all the key powers of public service including approving the carder positions and their grades. The

central government exercises this power with the department of management services which is one of a department functioning under the general treasury. They decide cadre requirements of the provincial council with assisting the Salary and carder commission and finance commission of the central government. The EPC cannot take any considerable decision on creating provincial cadre positions to ministries and departments without the central government approval because of the poor financial ability of the province.

This study mostly focused on Health and education subjects because of these subjects are closer to provincial community and also more than 90% of the EPC schools and hospitals are running under the provincial administration. The table 5.6 shows the influence of the central government to the education sector in the Eastern province.

Table 5.5. The central government influence to education sector

Subject	Central Gov. Schools	EPC schools	Total schools in the EPC	Number of teachers
Schools	29	1034	1063	17853

Source: Provincial Ministry of Education, Sri Lanka. 2013

By mid 2013 there were 17853 government teachers in the EPC and 10435 out of them were attached to the provincial public service by the central government. In health sector doctors, nurses, and technical staffs recruit by the central government and later they release to the provincial public service.

5.4. Fiscal Autonomy

For a successful decentralization process, fiscal autonomy has been considered as a key factor. According to Litavac and Seddon's decentralization analysis the fiscal autonomy covers several aspects such as Self-financing or cost recovery, co-financing or co-production, Expansion of local revenue, intergovernmental transfer for block grants, Authorization of municipal borrowing and autonomous expenditure.

Under the fiscal decentralization the power of revenue collection and autonomy of expenditure on their regional objectives are considered as the most important components. The fiscal autonomy should be devolved to the regional and local level in order to fulfill their needs. The decentralization asserts that the assignments of public expenditure powers to provinces must be matched by adequate finances to meet such needs. An analysis of the revenue powers assigned to the provinces must take into account the extent of autonomy in terms of setting rates, adopting comprehensive tax bases, and putting in place an efficient and credible tax administration (Asoka Gunawardana, Fiscal devolution, p110).

The 13th amendment of the constitution provides for two sources of the income for the provincial councils;

- A) Revenue derived from the respective provinces through the imposition of taxes, fees on a range of activities and licensing

B) Allocation of funds from the national budget

However according to the constitution of Sri Lanka There are three constitutional restrictions against the financial autonomy of the regional and local levels.

Article 148 – Parliament shall have full control over public finance. No taxes shall be imposed by any local or public authority except by the authority of the Parliament or existing law

Article 149 –All receipts shall pay to the Consolidated Fund (CF) all expenditure shall be charged to the CF

Article 150 - No fund shall be withdrawn from the CF except under the authority (warrants) of the Minister of Finance

In this context Fiscal autonomy of the EPC is very difficult to measure. The common indicators such as the share of sub-central in general government spending or revenue often provide an imprecise or even misleading picture of intergovernmental fiscal frameworks. Even though the provincial revenue success and amount of fund transferred by the central governments to the EPC was examined measurement of 20 subjects as a whole was not used because only by that measurement cannot evaluate the real fiscal autonomy as political and administrative autonomy of the EPC. At this point the structure of two indicators on the autonomy of revenue collection and autonomy in the expenditure were used as follows:

1. Annual EPC revenue as a percentage of annual EPC expenditure.

Annual EPC revenue shows its revenue capacity as well as financial stability. Both factors are considered as key components of fiscal autonomy.

2. Autonomous expenditure.

If EPC has autonomy to spend provincial funds or central government funds on provincial subjects without taking approval from central government it shows some fiscal autonomy of the EPC. On the other hand if the EPC should get approval from the central government it shows incapability and the dependency of center as well as weak fiscal autonomy.

In order to evaluate fiscal autonomy of the EPC two major components were considered as follows:

1. Annual EPC Revenue as a percentage of the annual expenditure .If the revenue of the EPC goes high that means its fiscal autonomy also goes higher. For that 20 scores were allocated and calculations have been done as follows.

For that calculations year 2012 is considered as the base year. Accordingly recent year's total revenue as a percentage of Total expenditure (%) was similar during the years of 2011 and 2012. Table 5.9 shows that.

Table 5.6 Evaluation of Provincial Revenue of the EPC

Year	2012
Total revenue (Rs. Million)	1504
Total expenditure (Rs. Million)	12098
Total revenue as a percentage of Total expenditure (%)	12.43
Score out of 20	2.48

Source: The Central Bank of Sri Lanka Report 2012

2. Under Autonomous expenditure considers the source of expenditure and the ability to take independent decisions on expenditure. Autonomous expenditure is measured using 20 subjects which were used before to evaluate political and administrative autonomy and for this data on autonomy to expense for each subject was collected. At the scoring level gave one point per one subject and if there is full freedom to expense it was considered as an autonomous expenditure.

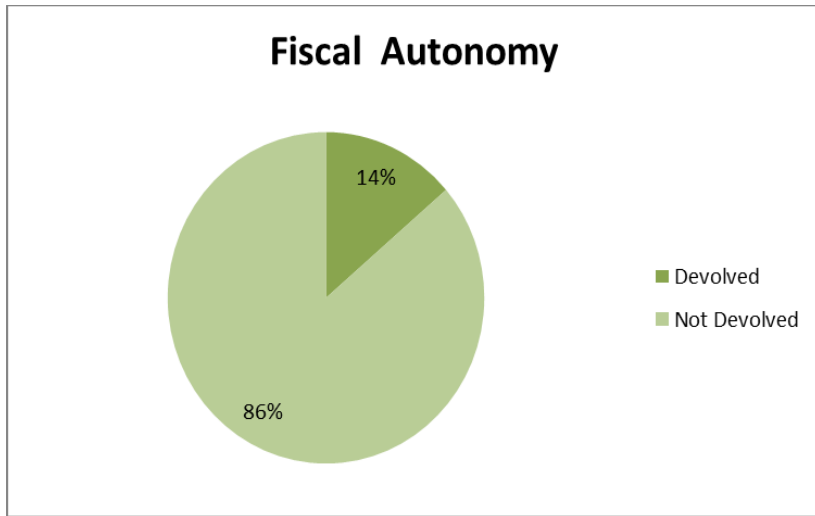
**Table 5.7 Evaluation of Fiscal Autonomy Autonomous
expenditure**

	Subject	Autonomous expenditure	Score
1	Police and Public order	No	0
2	Provincial planning	No	0
3	Education and Educational Services	No	0
4	Local Government	No	0
5	Provincial Housing and Constructions	No	0
6	Provincial roads	No	0
7	Social services and rehabilitations	No	0

8	Provincial transportation services	No	0
9	Agriculture and agricultural services	No	0
10	Rural development	No	0
11	Health	No	0
12	Indigenous medicine	No	0
13	Rest house and circuit bungalows	Yes	1
14	Pawnbrokers	Yes	1
15	Market fairs	Yes	1
16	Food supply and distribution within the province	No	0
17	Cooperatives	No	0
18	Land	No	0
19	Irrigation	No	0
20	Animal husbandry	No	0
	Total	3	3

According to fiscal autonomy indicators the EPC has scored 2.48 and 3 respectively and the overall fiscal score was 5.48. Finally, the fiscal autonomy of the EPC is 14% and it shows that the influence of the central government on fiscal autonomy of the province. Furthermore this result is shown in figure 5.3 and the fiscal autonomy of the EPC is relatively very weak and insufficient.

Figure 5.3 Fiscal Autonomy of the EPC



According to fiscal autonomy indicators EPC has very weak fiscal autonomy with compared to political and administrative autonomies. As a decentralization step this situation directly affects with the objectives of the PCS and with a poor fiscal autonomy this province cannot find any meaningful solution to the ethnic problem.

There are many reasons for the low revenue autonomy of the province. Among them the strong tax base of the central government and poor organization structure of the provincial revenue department were the key reasons. The central government has many important tax bases such as income tax, value added tax, production tax and import duties. On the other hand Provincial revenue collection manpower also is very weak when compared to the central government. The central government abolished the Business

turnover tax (BTT) in 2011 and it was the key tax source of the provincial revenue. Thereafter PCS used to be heavily depend on central government.

For a successful decentralization process fiscal autonomy is considered as a key factor. For that the EPC should have their own strong revenue base and capability to cover expenditure by them self. But the EPC depends on the central government for funds.

According to the following table, the revenue generated be EPC is very low out of the total expenditure of the province. Table 5.9 shows the revenue and expenditure of EPC in the last 5 years and it clearly shows how much it depends on the central government for its financial requirements.

Table 5.8. Revenue and Expenditure of the EPC

Year	Total revenue of the EPC (LKR Millions)	Total expenditure of the EPC (LKR Millions)	Provincial revenue as % of total expenditure
2008	875	10230	8.55
2009	1132	11850	9.55
2010	900	12085	7.44
2011	825	12750	6.47
2012	1504	12098	12.43

Source: Central Bank of Sri Lanka.2012

Not only the Eastern province other provinces also have faced this situation. Average revenue of all provinces is enough only to cover less than 20% of annual expenditure. Despite the quantity of funds the objective of the allocation of funds is also problematic. According to the figures in 2012, 18% of annual funds allocated as capital expenditure and another 82% of expenditure allocated as recurrent expenditure. With such a low capital expense the ability of the provinces to undertake any economic development related activities are very limited.

5.5. Overall regional autonomy

Finally the overall autonomy of the EPC was evaluated using political, administrative and fiscal autonomies which mentioned earlier and the results shows in the table 5.10.

Table 5.9. Overall autonomy of the EPC

Autonomy	Scores	Scores for expected decentralization
Political (40)	23	40
Administration (40)	25	40
Fiscal (40)	5.5	40
Total (120)	54.5	120
Overall autonomy	45.40%	100

According to the indicators used to measure the autonomy, the EPC has earned 54.3 scores out of 120 and as a percentage it is **45.40 %** out of total score. For a successful decentralization process it should be reached up to 100% or close .The results of overall autonomy in order to political, administrative and fiscal autonomies in the table 5.10, the degree of the decentralization of the EPC is less than 50% and it shows the low autonomy of the EPC.

5.6. Power struggle between elected executive and appointed executive

The main issue in the administration that are arising at the operational level is the powers of the Governor of the province. Governor is appointed by the executive president would naturally play the role of a representative of the president and the central government. A governor is in a position to execute his executive powers directly or through the board of ministers or the officials. He is empowered to exercise his discretion in the discharge of any function and the Governor's decision is final. And his decision cannot be challenged in a court of law. This situation will become a power conflict in the eastern and northern provincial councils in the future administration process. During this period both provincial governors in these provinces are retired senior officers of the Sri Lanka military and minority ethnic parties do not like that and asking to appoint civil people as governors.

If the governor wants he can act on the advice of the chief minister and board of ministers. However, unlike the president who is the head of the cabinet, the provincial governor is not the head of the board of ministers of the province but is required to exercise his powers in accordance with the advice of the chief minister of the province so long as the board of ministers commands, in the opinion of the governor, the support of the majority of the provincial council.

The discretionary powers of the governor do relate to the following:

1. Appointment of the chief minister
2. Assent to statutes of the provincial council
3. Dissolution of the provincial council
4. Emergency situations, pertaining, for instance, to break down of the administrative machinery of the Province.

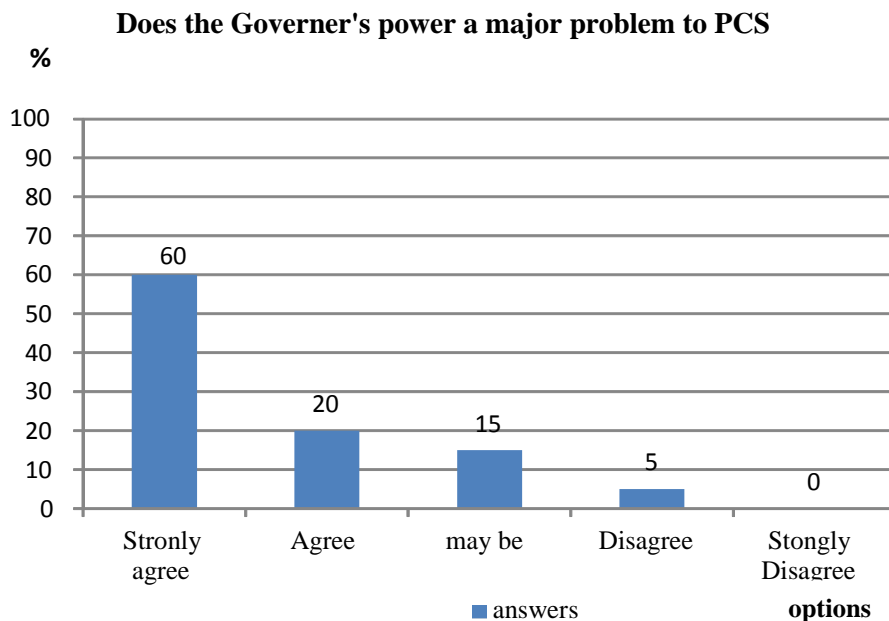
There have been instances of conflict between the democratically elected provincial council members and the presidential appointee, the governor because of ambiguity in term of legally devolved power and function among them. Some of these disputes have come before the courts. One such dispute referred to a provision which stated the Governor should appoint as chief minister the provincial council member who is in his or her opinion the best able to command the support of the majority of the members of the Council (1993) 2 SLR 294).

Under this research a survey was done on this conflict because this is not only a problem for minority dominated Eastern and Northern provinces but for some other provinces too. For this survey a sample of 20 senior government officers who have been working for provincial councils more than 5 years was used.

They were asked whether the provincial governor's power a major problem to the PCS or not? And according to survey results 60% of participants strongly agreed with the suggestion and nobody rejects. This survey result shows in figure 5.4.

Figure 5.4

Q1: Does the Governor's power a major problem to PCS?



The senior provincial public officers in the all provinces are aware about the excessive power of the governor, and 60% of them strongly agreed it is as a major problem of the PCS. In addition to that 20% agreed to that .Then 80% of the sample agreed about governor's excessive power and that depicts the governor's excessive power creates some problems as mentioned below to EPC.

1. The EPC cannot take political or administrative decision independently
2. Threat to the local democracy because the governor is not responsible to people and he makes restrictions to elect provincial politicians.

5.6. Findings of the study

The most important finding of this study is even though the constitution anticipates devolving some subjects to provincial level in order to give some autonomy to minority ethnic groups still autonomy is not devolved to the provinces as expected. As a result of that, the regional autonomy of the EPC is very low and no considerable impacts to minority ethnic groups through provincial councils. Through PCS cannot find a permanent solution to the ethnic problem. This study has shown gap between theoretical decentralization and practical decentralization.

Under the 13th amendment the central government has devolved 37 subjects to the provinces, but this study shows the reality, the central government has not devolved 37 subjects and still remaining some subjects in the center. The

implementation of PCS has failed due to low regional autonomy and governors excessive powers. Even the 13th

amendment has suggested devolving power to regional level practically it was not successful so far. Considering the index on regional autonomy and the excessive power of the governor the research hypothesis has to be rejected and this system has not given enough powers to minority ethnics in the EPC.

Under the existing system central government has centralized all powers without sharing powers to PCS and PCS becoming weak institutions. On the other hand there is a risk for another conflict because existing system has failed to fulfill the requirements of minority ethnic groups of the EPC. Without sharing power to the regional level in a real way, cannot find a sustainable solution for minority ethnic's problem in Sri Lanka.

Devolution of political, administrative and fiscal powers is needed to meaningful devolution. Provincial Councils must have the power to enact laws and approve regulations that are suited to the specific needs of the Province. Under the constitution 37 subjects have been devolved to the provinces and another 36 subjects shared as concurrent list which is the central government and provinces can make statutes together.

This study mainly focused on this intergovernmental conflict between central government and provincial governments. During the implementation process, most important two subjects (police and land) still do not shared by the central

government to the EPC and this kind of actions make huge barriers to provincial autonomy.

After measuring the regional autonomy of the EPC it is revealed that the real situation was so different than constitutional arrangements. According to the 13th amendment it clearly shows 37 subjects have been devolved to the provinces by the center but the real situation is some subjects are still remaining under the central government. And also most of the subjects are exercised by the central governments as a result of that regional autonomy of the EPC is very weak. This situation can be described as central government has given power in the right hand and taken back it in the left hand.

Chapter 06 Conclusion and policy implications

6.1. Conclusions

This study has focused on impacts of the provincial council system on intergovernmental changes with recent decentralization reforms in Sri Lanka. The PCS system has been established as a solution to the ethnic problem. In addition to that, PCS has aimed to enhance local democracy and regional development. All these prospects depend on the regional autonomy of the PCS. If the PCS have not been given enough autonomy on their subjects it reflects the incompetence of the PSC system. This study has assessed degree of the regional autonomy in order to achieve devolved subjects. According to this study the EPC has not been devolved enough autonomy to fulfill its subjects due to central government interventions. Finally it is found that PCS has no impact on minority ethnics.

According to the objectives of this study it is aimed to find answers for three questions, a) What is the extent of subjects' devolved by the central government to the provincial councils? b) What are the most important intergovernmental relations are taking place after introducing the PCS with respect to political, administrative and fiscal autonomies? and c) Does the central government give enough regional autonomy to eastern provincial council and minority ethnics to exercise their own interest which assured by the provincial council act?

The second chapter explained the conceptual framework of the study and mostly discussed about decentralization, devolution, intergovernmental relations and regional autonomy. Decentralization concepts and theories used to measure degree of regional autonomy and same time indicators were used to measure the degree of autonomy.

The third chapter provided a background of the legal framework of the Provincial Council system of Sri Lanka explaining the constitutional arrangements, the objective of the PCS and the history of the Ealam war. The main purpose of the chapter was to identify the intergovernmental institutions and their roles within the provincial councils and this study presents the intergovernmental relations and intergovernmental conflicts in a provincial council.

The fourth chapter presented research methodology and explained the way this research was conducted using a literature review and field survey.

The fifth chapter presented the analysis of the findings of the study. One hypothesis was tested in this study and tried to find the impact of the Provincial council system on political, administrative and fiscal autonomy of the EPC. According to the findings the EPC has not been provided adequate political, administrative and fiscal autonomy to fulfill their objectives. The devolved subjects and its autonomy still are remaining with the central government. Due to these syndromes the EPC is unable to practice the powers

in an effective manner. So, according to the survey results on the regional autonomy that hypothesis was rejected. Therefore, it is pure and simple that, the success of all aspects including sustainable peace and regional development at the regional (Provincial) level depends on the extent of the provision of sufficient regional autonomy.

According to the 13th amendment of the constitution, it seems provincial councils have been devolved many powers by the central government. This study focused to evaluate the real regional autonomy of the EPC under Political, administrative and fiscal autonomies. After evaluating the regional autonomy of the provincial council system it was found that the real situation was so different than the constitutional arrangements. Even under the PC system has devolved political, administrative and fiscal powers to the minority ethnic groups, the reality is it was not happening so far. According to 13th amendment it clearly shows 37 subjects have been devolved to the provinces by the center but the real situation is some subjects still remaining under the central government. And also most of the subjects are exercised by the central government. This situation has caused because of central government supremacy. According to the research findings the provincial council system does not make any impact to provincial level because of less autonomy of the provinces.

Also this study revealed there are two kinds of intergovernmental relations which caused to limit EPC regional autonomy. Under the executive

presidency, the President can appoint provincial Governors and Chief Secretary and control provincial council by ordering them. Especially when the president and provincial administration represent two political parties president can use his supremacy to control provincial government.

PCS was established as a part of the strategy to solve the ethnic conflict exercised more than three decades longer and lost more than a hundred thousand lives. By devolving political power, it was expected that the people in the provinces would be able to lead more effective lives. The provincial political administration is accountable to the people, and making policy on the basis of provincial priorities would provide a sense of ownership to the people in the province. More importantly, the results of empowerment were expected to contribute, at least to some extent, to satisfy the Tamil community within which a separatist movement had arisen. Even though through PCS all parties expected to devolve reasonable degree of political powers findings of this study reveals that PCS was not successful until now because of central government interventions.

Furthermore this study revealed “constitutional devolution” is not a firm solution for an ethnically diverse society .The devolution process could be exercised in the real base and if not the basic fundamental goals of the decentralization process would not be achieved the success. Hence this study gave the opportunity to identify differences of thinking of different ethnic groups and understood the restrictions they have faced under the centralized

system. However those objectives totally depend on the real degree of regional autonomy of the Provincial councils.

When investigating the systematic empirical evidence regarding decentralization and ethnic conflict of Sri Lanka, it is important to note that all forms of decentralization models have proved hard to implement fully. The existing literatures reflect extreme lack of enthusiasm to transfer meaningful powers to representative sub-national government. Indeed without the higher degree of regional autonomy, decentralization will not deliver the theoretical benefits, such as Peace, efficiency, equity and improved service delivery.

The results of this study suggest that we must first achieve a wide range of power in decentralization in the areas of minority ethnics in order to increase regional autonomy. The existing PCS was established as part of a strategy to resolve the ethnic conflict in Sri Lanka. It was expected that by devolving power, the people in the provinces would be able to participate in the decision making process in the province but the results show that it was far behind the goals set at the time of introducing PCS.

The study finds provincial councils have some degree of political and administrative autonomy than fiscal autonomy. If central government devolved more fiscal autonomy for provinces it may be a positive effect to the central government budget.

According to the provincial election results of northern and eastern, majority people already have given their consent to take regional powers to the provincial council. But same time majority people of the country did not agree to share police and land powers to the provincial councils. However minority people have expressed their willingness to provincial council system in a unitary country. If the central government would not give the powers to provincial level as mentioned in the 13th amendment that may be cause for another serious conflict among the ethnic groups as it is difficult to achieve integration between ethnics without sufficient power devolution.

Four years since the end of the Ealam war in Sri Lanka, women and children remain as, or more vulnerable and insecure because of the war. With the number of female headed households (i.e. war widows, long-term detained, teen mothers and wives abandoned by their spouses) and poverty having drastically increased as a result of the war, so have the grievances and hardships they are made to face. The State has set up a few (if any) mechanisms/structures to ensure their security, and have nurtured a climate of absolute impunity with regard to how it treats perpetrators, particularly those directly affiliated to the State (i.e. police, military, local authorities). So the best solution for strengthening the PCS is giving political, administrative and fiscal autonomies to provinces to develop themselves without depending heavily on the central.

6.2. Policy Implications

After observing and investigating the provincial council system in the eastern province some policy implications are recommended for a successful decentralization for minority ethnics.

Practical Implications

1. Devolution of powers to provincial councils in the 13th amendment is a necessary to meaningful devolution. Provincial Councils must have the power to enact laws and approve regulations that are suited to the specific needs of the Province. So at the first stage except police powers others should devolve to the provincial councils. Devolution of devolved powers in the 13th amendment is essential to rebuilding society with strong economically and socially in the North and East. So devolved powers should be shared practically specially in EPC and NPC . Devolved powers in the 13th amendment do not mean the exercise of unfettered the powers. The central government should take a policy decision not to exercise executive power in relation to any devolved subjects.
2. Clarify services delivery responsibility of the central, provincial and local levels of the intergovernmental system and assigned revenue sources separately each of them. Therewith established nationally agreed proportions for sharing state revenue by the three tiers of government, allocating at least 25% of the state revenue to be shared by the provincial councils and local governmental institutions.

3. Promote the model of the constitutional head as the appropriate model for the provincial governor. Possible measures to be adopted in this respect include appointing governors on merit criteria rather than on a patronage basis and consultation with the chief minister in making the appointment. Same time makes necessary amendments to the existing legal provisions requiring the governor to appoint the provincial public service commission in consultation with the chief minister.
4. Establish a body that permits the political leaders of the provincial councils to meet with the leaders at the center formally and with some regularity. Chief Ministers can be invited to the weekly cabinet meeting because there represent provincial people and they have considerable amounts of subjects.

Academic Implementations

The entire problem on decentralization happened because of disbelieving ethnics in the country. Among ethnics disbelieve each due to war experience more than three decades. Distrust is the key reason for all ethnic problems in the country and this study revealed that power decentralization must be done openly and so on. If not other ethnic conflict may start soon and country will turn his journey back.

Sri Lanka has a long history as a unitary country and majority Sinhala people never expect separate parts of the country for minority ethnics. Some groups

act as racism and have extreme ideas on decentralization. Development of this kind of ideas and groups badly effects to the country development. This study has reflected the necessity of knowledge about decentralization as a subject not only the political science but public administration and other relevant areas too. In addition to that researches and policy makers should be encouraged learning and research on the decentralization.

6.3. Limits of the study

As public officers have a limitation on criticizing public policies under the establishment code of the Sri Lanka it was difficult to analyze the policies on decentralization. Because of that regulation, some public officers did not give fair responses in the field survey especially in the eastern province.

As the research area is a part of war affected areas of the country and some parts of the province had been ruled by LTTE and was not functioning government institutions, any information of that period could not be found.

Revenue and expenditure data was not available according to inspect last ten year fluctuations. In addition to that, as the study is directly involved with the politics, the political parties have many political ideas about the system. Although the political parties especially minority political parties may have many different opinions about the provincial council system and its

implementation, those ideas could not be collected in this study due to the sample selected to gather information.

6.4 Future Studies

This study reveals that Political decentralization is not a solution for empowering ethnic groups in order to prevent ethnic conflicts in a country. Some countries have good experiences in decentralizing the political power within the provinces and empowering minority ethnics .Comparative studies are more needed to get success learning about the decentralization process in Sri Lanka. This kind of studies reveals the history and evolution of the decentralization process and also the ways of overcoming decentralization problems. Researches on comparative studies and lessons learnt from the decentralization in various countries are more needed to this field for better implementation of the system.

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국문초록

주정부제도가 정부간 관계의 변화에 미치는 영향

: 스리랑카의 지방분권에 관한 연구

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본 연구의 목적은 스리랑카에서 주정부 제도가 정부간 관계의 변화에 미치는 영향을 살펴보고자 하는 것이다. 주정부 제도란 중앙정부의 권력을 주와 지방단위로 이양하는 지방분권의 과정이다. 오늘날 전 세계적으로 정치적인 분권은 민족간 갈등을 줄이는 효율적인 정책수단으로 인식되고 있다. 지방분권은 항상 정부간 관계의 형태를 변화시키고 또한 중앙정부와 지방정부간에 역할과 책임도 지방분권에 따라 달라진다. 때문에 주정부 제도를 통해서 소수민족 집단들이 권력을 분점할 수 있고 의사결정에 있어 그들의 참여를 증진시킬 것이라고 기대되었다.

본 연구는 연구대상으로 스리랑카의 동부지역을 선정하였다. 다른 지역과 비교해 볼 때, 동부지역이 다문화 지역이고, 종교적 배경 역시 다양하기 때문이다. 동부지방 주정부는 지금까지 6년간 주정부 권한을 행사하고 있다.

자료 수집과 분석을 위해서 질적 연구방법과 양적 연구방법을 모두 사용하였다. 지역의 자치권한 수준(지방분권의 심화정도)과 정부간 관계를 탐색하기 위해서 이론적 분석틀에서 밝힌 지방분권화 모델을 사용하였다.

본 연구는 동부지방 주정부의 자치권한 수준을 Litvack 과 sadddon의 지방분권화 개념의 구성요소에 기반하여 정치, 행정, 재정 자치 등 세 가지 주요 기준에 따라 평가하였다. 20개의 항목을 통해 정치적 권한을 평가하였는데, 동부지방 주정부는 단지 57% 권한만 가진 것으로 확인되었다. 이를 통해 중앙정부로부터 많은 권한이 이양되지 않았다는 것을 알 수 있다. 또한 행정자치의 경우 주정부가 62%의 권한을 가지고 있었다. 이는 스리랑카의 전반적인 지방분권 수준에 비하면 상당히 긍정적인 결과이긴 하지만 32%의 권한은 여전히 중앙정부에 있었다.

끝으로 재정 자치의 경우 주정부가 단지 14%의 권한만을 가지고 있었는데 이것은 재정 자율성 부분에서는 중앙정부의 영향이 여전히 지배적이라는 것을 보여준다. 자치권한을 측정하기 위한 지표에 따르면 동부지방 주정부는 120점 중에 54.3 점을 기록했는데 이는 총점과 비교해 볼 때 45.40%에 달하는 것이다. 성공적인 지방분권을 이뤘다고 보기 위해서 100%에 도달하거나 그에 근접해야 한다. 지역의 자치정도를 평가한 이러한 지표는 헌법 및 법령이 제시하는 것에 비해서 여전히 자치수준이 매우 낮다는 것을 보여준다. 본 연구는 주정부의 자치권한이 매우 낮고 기대했던 목표에 도달하기에는 부족하다는 것을 밝혀내었다.

또한 동부지방 주정부의 자치정도는 감소하고 있는 추세인데, 이는 중앙정부의 개입때문인 것으로 보인다. 본 연구는 이론적인 차원에서 자치와 실제 동부지방 주정부의 자치 수준의 차이가 있다는 것을 명확히 보여주었다. 민족간 갈등을 해결하기 위한 대안으로서 제시된 지방분권을 제대로 실시하기 위해서는 주정부가 정치, 행정 및 재정 권력에서 모두 충분한 권한을 가져야만 한다. 그럼에도 불구하고 지방분권이 민족간 갈등과 지역별 차별에 대한 영구적인 대안이 되지는 못한다는 점 또한 명심해야 할 것이다.

본 연구는 지방분권에 대한 지식을 정치학, 행정학 및 관련 학문분야를 망라하여 반영하였다. 이러한 연구에 기반하여 정책결정자들이 스리랑카의 지방분권에 대해 더욱 관심을 가지고 연구할 수 있는 기회가 될 것으로 기대한다.

주요어: 지방분권, 정부간 관계, 권한이양, 지방 자치

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